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## THE SUGAR SITUATION IN AUSTRIA.

OF the recent events in the history of industrial combinations, the Austrian Sugar Contingent Law of January 31, 1903, and the bill introduced by the government shortly after for the prohibition of sugar-beet *rayons*, are especially noteworthy. The former is a law assigning to the various refineries, as united in cartels, fixed contingents or quotas of the total production of sugar in Austria ; the latter is a project designed to prevent the sugar manufacturers from dividing the field in the purchase of beets, and thus exploiting at will the beet growers. In order to understand the present legislation and policy in Austria in regard to the sugar industry, it is necessary to make a brief historical survey of the situation.

### I. *The Sugar Industry and the Cartel.*

The sugar industry in Austria, as in all European states, is of modern growth. Formerly sugar was a "colonial ware," but its high cost, especially during the Continental Blockade, promoted the efforts to develop a substitute for the sugar-cane which might be cultivated in Europe. The discovery of an economical method of getting sugar from beets was due to a German (in the eighteenth century), but the early development of the industry was left to the French. Even in the middle of the nineteenth century cane-sugar played a predominant rôle in the European markets. In Austria in 1850, over two-thirds of the sugar con-



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sumed was of colonial origin.[1] From that time on, the cultivation of sugar-beets made such rapid progress that in the sixties sugar became an Austrian export.[2] An indirect or consumption tax was first levied on the producers in 1849, but in the interest of the local industry a rebate or drawback was allowed for the quantity exported. This tax, originally based on the actual output, was changed in 1865 to a tax on estimated output calculated on the assessed capacity of each plant. Producers naturally tried to improve their methods so as to get the greatest possible output from their plants, and succeeded so far that in 1875–6, in spite of increased capacity assessments and tax demands on the part of the government, the amount they were required to pay in taxes was less than what they received as rebates for exports.[3] The tax had become a bounty through technical progress! It became necessary to alter the system, and in place of the plan of refunding taxes, a system of fixed bounties was adopted in 1888 with a fixed total amount.[4]

The industry had developed with great rapidity; from a production of 800,000 metercentners in 1860–1 to 6,530,000 metercentners in 1884–5; from no export in 1860–1 to 3,590,187 metercentners in 1884–5, and from a consumption of 820,000 metercentners in 1860–1 to 2,260,000 metercentners in 1884–5.[5] This had been accompanied by a development of large industry and great reductions in cost and price. Circumstances favored the development of the manufacture of refined sugar, as compared with the manufacture of raw sugar, and, consequently, through the rapid multiplication of refineries, the price of refined sugar was forced down to a low point, so that the difference between

[1] *Cf.* Grunzel, Ueber Kartelle, Leipzig, 1902, p. 275.

[2] Denkschrift der Handels- und Gewerbekammer in Prag in Betreff der staatlichen Regelung des Cartellwesens Prag, 1896, p. 80.

[3] This gives an illustration of the power of taxation to develop production, which in its historical significance may be put beside McCulloch's famous illustration drawn from the taxation of spirituous liquors in England.

[4] Grunzel, *op. cit.*, pp. 275–6, 279. Originally fixed at 5 million florins, it was frequently increased; in 1896 it was set at 9 million florins. *Cf.* Bruker, Zuckerausfuhrpramien und Brüsseler Vertrag. *Jahrb. f. National-Oekonomie und Statistik.* III Folge, 23 Bd. 1902, p. 468.

[5] Grunzel, *op. cit.*, pp. 276–7.

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raw and refined which in 1884 was 12 florins per metercentner, sank in 1891 to 5.50 florins, and the weaker refineries found themselves in a difficult financial situation.[1] These difficulties were aggravated by the erection of large new plants in Hungary.[2]

The consequence was the formation of a cartel by the refiners which was signed on July 8, 1891.[3] Cartels were already popular in Austrian industrial circles, where, in spite of considerable accumulation of capital, there seems to exist a certain timidity in business and a desire for a safer, if more moderate, profit. Hence the strong are almost always ready to make alliances with their weaker competitors. The principal feature of the cartel was the limitation of production for the home market — for the year 1891–2 it was set at 2,300,000 mtc., of which Bohemia was allotted 900,000, Moravia, Lower Austria, Silesia and Galicia 950,000, and Hungary 450,000. Within these provinces the fixed quantity was apportioned among the refineries, partly on the basis of the tax statistics of production. A central office was established to check the output and to impose conventional penalties for breaches of the agreement.[4] Its object, as the *Prag Handelskammer* remarks, was "selbstverständlich," to raise prices, but it was not a "price cartel," *i.e.*, the price of sugar was not to be fixed, but only the quantity that might be produced.[5] Practically, nevertheless, prices seem to have been fixed more or less by oral agreements.[6] This cartel did not include the raw sugar manufacturers. The subsequent rise in the price of refined sugar, from which they got little or no advantage, afforded a constant temptation to the raw sugar manufacturers to engage in refining also. The margin between refined and raw sugar increased from 4.45 florins in October, 1891, to 10.05 florins in

[1] Grunzel, *op. cit.*, pp. 279–80.

[2] *Cf.* 154 der Beilagen zu den stenogr. Protokollen des Abgeordnetenhauses. Session XV, 1898, p. 47.

[3] Grunzel, *op. cit.*, p. 280.

[4] Grunzel, *op. cit.*, pp. 280–1.

[5] Denkschrift der Handels und Gewerbekammer in Prag, *etc. Cit. sup.*, p. 83.

[6] *Cf.* 154 der Beilagen, Session XV, 1898 p. 47

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January, 1894. The cartel, which had been formed at first for one year, but had been renewed, broke down in 1894 under the new competition called forth by its price policy.[1]

The price situation is shown by the following table[2] (florins).

| SEASON. | SUGAR PRICE. | BEET-GROWERS. | RAW MANUFACTURERS. | REFINERS. | TAX. |
|---|---|---|---|---|---|
| 1889–90 | 36.50 | 9.03 | 10.97 | 5.50 | 11 |
| 1890–91 | 32.00 | 8.90 | 6.50 | 5.50 | 11 |
| 1891–92 | 32.50 | 7.98 | 8.12 | 5.50 | 11 |
| 1892–93 | 36.00 | 9.79 | 7.21 | 8.00 | 11 |
| 1893–94 | 39.00 | 9.08 | 9.97 | 9.00 | 11 |
| 1894–95 | 29.00 | 9.02 | 3.48 | 5.50 | 11 |

The weakest point of the cartel had been the failure to come to an understanding with the raw sugar manufacturers, and an earnest effort was made by the refiners to establish peaceful relations by the offer of a part of the margin over a certain minimum (6 florins), together with some other conditions. This failed, and in October, 1895, a new cartel was formed, still independently of the raw sugar producers. Renewed attempts were succeeded by a war in which the raw sugar manufacturers invaded the field of the refiners, but were defeated. In order to strengthen themselves, the former also established a cartel, called the *Genossenschaft der österreichisch-ungarischen Zuckerfabriken*, which regulated the output of raw sugar. It was more difficult to cartel the raw sugar production, as this was more widely distributed and the parties were more unequal. The combination was effected, it is claimed, at the expense of the small manufacturers, who sought to secure their existence by the sacrifice of part of their beet-territory (*rayon*).[3] A more friendly relation with the Sugar Cartel was established, and soon resulted in the formation of a common cartel (July 26, 1897) for five years. The principal features of the agreement are: the guarantee of a mini-

[1] Grunzel, *op. cit.*, pp. 281–2.

[2] Grunzel, *op. cit.*, p. 282.

[3] See Report of Hodek, in Denkschrift der Handels- und Gewerbekammer in Prag, *etc.*, p. 96.

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mum price to the raw sugar manufacturers of 15 florins;[1] the exclusion of the same from refining; the obligation of the raw sugar manufacturers to sell only to the refiners' cartel in the home market; the agreement of the refiners not to manufacture raw sugar, nor to buy raw sugar from outsiders. The executive power is given to a joint committee, and the cartel has the usual appurtenance of an arbitration court. For the refiners alone important changes were made in the cartel, notably the introduction of a monthly contingent and a price regulation.[2]

The cartels, and particularly the Sugar Cartel, had called forth loud complaints[3] in Austria, which is notoriously a country given to small industry and small shop-keeping — influences which are politically influential. The denunciation of the socialistic Rosenberg, that the Sugar Cartel was "a registered robber band,"[4] found echoes even in conservative circles. Government suppression or regulation was demanded, and, curiously enough, the cartels in general did not seem opposed to the latter, provided, of course, the regulation paid sufficient regard to their interests. The government had also another motive; it viewed the cartels, and particularly the Sugar Cartel, with considerable alarm, as it feared that an increase in the price of commodities subject to indirect taxation (especially sugar) would lead to a diminution of consumption, and hence of state revenue. The government also meditated increasing the sugar tax, which would be made difficult if the cartel at the same time increased prices. Moved by these reasons, the government brought in a bill for the regulation of cartels in certain lines — *i.e.*, those pertaining to articles of con-

[1] Differences between 15 florins and the market price of raw sugar, unfavorable to the raw sugar manufacturers, are to be made good by the refiners, provided that no quotation will be taken below 11 florins; provided further, that the total bonification shall be limited to 10½ million florins. The payments are to be made to a committee, who are to divide the sum among the raw sugar manufacturers in such a way that those producing less than 35,000 mtc. shall receive a full bonus, and the others, eventually, a proportionally reduced one. *Cf.* Grunzel, *op. cit.*, p. 285.

[2] Grunzel, *op. cit.*, pp. 282–6.

[3] *Cf.*, *e.g.*, Adler in *Schriften d. Verein für Social Politik*, Bd. 61, p. 198. For complaint of traders, *cf.* Verhandlung der Handels- und Gewerbekammer in Prag im Jahre 1897. Prag, 1898.

[4] *Zeitschrift für Staats- und Volkswirtschaft*, June 6, 1897.

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sumption subjected to indirect taxation, such as sugar, spirits, beer, petroleum, salt, *etc.*[1] The government characterized the policy of the Sugar Cartel as follows:

> The new cartel proceeds, therefore, to an exploitation of the consumer limited only by the existing customs duty, without regard to the burdens of consumption in consequence of the taxation to which sugar is already subjected and the higher degree to which it ought to be subjected in the future.[2]

The bill failed, though twice reintroduced in modified form At this juncture the courts, in interpreting the existing law,[3] declared in several cases that cartel agreements were without legal effect.

The Sugar Cartel stood firm in the face of adverse judicial decisions and attempted legislation, but a new danger soon menaced it from another quarter — the International Sugar Convention. Austria was not the only country which had a great sugar industry; Germany, France, and Russia, not to mention smaller states, were her competitors. In the rivalry for the export trade — particularly to England and the United States — government aid had been lavished on the producers until it had become an extravagant process of overbidding of bounties, which were sometimes met abroad by retaliatory or countervailing duties (*viz.* in the United States, Australia, Canada, and India). The Brussels Conference was called to bring about a financial "disarmament." Its result was a treaty the essential features of which are that all export premiums, direct or indirect, are to be abolished, *protective* duties on refined sugar are not, in effect, to exceed 6 francs per 100 kilograms, except for those countries which maintain

[1] 154 der Beilagen zu den stenogr. Protokollen des Abgeordnetenhauses. XV Session, 1898. Regierungsvorlage. Gesetz vom . . . über Cartelle in Beziehung auf Verbrauchsgegenstände, die einer mit der industriellen Production in enger Verbindung stehenden indirecten Abgabe unterliegen. See § 1; also Erläuternde Bemerkungen, pp. 10–11, 17–18.

[2] 154 der Beilagen, *etc.* *Cit. sup.*, p. 50.

[3] Law, 7 April, 1870, which provides that agreements of tradespeople (Gewerbsleuten) designed to raise the price of a commodity to the disadvantage of the public are without legal effect. *Cf.* Menzel, Die Kartelle und die Rechtsordnung (Leipzig, 1902), pp. 19–20.

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bounties or premiums, imports from which shall be taxed in addition a sum equal at least to such bounties or premiums, or may be prohibited. Austria and Hungary are considered as separate parties to the treaty (Art. 7); though the United Kingdom is a party, her colonies and dependencies are not, nor is Russia, nor the United States. The convention was to go into effect September 1, 1903 (Art. 10). It is to last for five years and may be continued.

## II. *The Sugar Contingent.*

The prospects of the sugar industry under the new international agreement were uncertain. The government was not only anxious to preserve the prosperity of an industry which was the basis for lucrative tax impositions — direct and indirect — and which furnished a large item to Austria's credit in international trade,[1] but it was undoubtedly not free from the powerful political influence which belongs, not unnaturally, to this great economic interest. The government, at any rate, determined to intervene, and adopted the familiar expedient of the cartels themselves, namely, a *Contingentirung*, or apportionment of the output to each part of the Empire and to each individual manufacturer. To understand the matter clearly, we must first review the pre-existing law.

The law of June 20, 1888, as modified by imperial decree of July 17, 1899, had fixed the export bounty at 3 k. 20 h. for raw, and 4 k. 60 h. for refined sugar; it was provided further that, if the export bounty should exceed 18 million kronen, the excess should be repaid by the sugar manufacturers collectively, according to certain rules which provided for the division of this responsibility between the manufacturers in (*a*) territories represented in the Reichsrat, *i.e.*, Austria, (*b*) territories of the Hungarian crown, and (*c*) Bosnia and Herzegovina, but which left the division of the burden among the individuals in each of these regions to

[1] For 1900–01 the production of raw sugar in Austria-Hungary was 10,806,740 mtc., the export of raw sugar, 5,447,130, the export of refined sugar, 877,910; submitted to taxation 3,783,690; in 1899–1900 the consumption taxes amounted to 123,098,042 kronen.

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local legislation.[1] The local rule for Austria proper was extremely complicated, and it is not necessary to state it here in detail, but the principle is liability proportional (approximately) to the amount of raw sugar produced. The significant feature of the law in this connection is the way in which the sugar bounty was distributed. Under a cartelled industry it amounted almost to an apportionment of export. The plan now proposed and adopted was an apportionment of production, and the indirect effect is a determination of the total amount of the tax on domestic consumption as contrasted with the determination of the export bounty.

This novel plan was introduced in the Austrian legislature in two bills, one of which established the contingents for the several divisions of the Austro-Hungarian monarchy, and the other the individual contingents for the Austrian dominions proper. The first bill requires only a brief description. The first section provides that the customs duty shall be at the maximum permitted by the terms of the Brussels Convention, and the second abolishes the payment of bounties after August 31, 1903. The *Contingent* is established in the fifth section, and the apportionment between the divisions of the monarchy is as follows: (*a*) territories represented in the Reichsrat (Austria) for 1903–4 are allotted 2,770,340 mtc. consumption sugar, (*b*) territories of the Hungarian crown are allotted 863,660 mtc., and the territories Bosnia and Herzegovina together are allotted 26,000 mtc. An elaborate provision is made for an eventual increase of the last mentioned share in the next following year with a corresponding deduction from the two first mentioned shares. It is further provided that the Finance Minister of Austria, with the advice of technical experts, and working in agreement with the Finance Minister of Hungary, shall regulate the amount brought into trade for domestic consumption, periodically, and, at least, for monthly periods, and that he, with the agreement of the Hungarian Finance Minister, may raise or diminish the contingent in the course of a single working season, in order to accommodate the actual demand. Further, it

[1] Das Gesetz vom 20. Juni, 1888, betreffend die Zuckerbesteuerung mit dem im IV Theile der kaiserlichen Verordnung vom 17 Juli, 1899, verfügten Abänderungen, §§ 1, 2, 3.

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is provided that the regulation of the individual privileges of sugar manufacture for internal consumption shall be left to the independent action of the several divisions of the monarchy. The other sections of the law do not require notice here beyond the mention that penalties are provided (§ 8), and the law is given effect immediately on its passage (§ 9), which occurred, as a matter of fact, on January 31, 1903.

The Individual Contingent Bill was introduced in the House of Representatives on January 21, 1903, accompanied by the usual official explanation of motives, *etc.* The Ministry of Finance had planned the legislation with the aid of the results of two special investigations of the subject, in which the interested parties had come to a substantial agreement.[1] It is explained that the motive of the law is not simply to protect the home market against foreign importations, but also to secure for the home producers an equitable division of the business, to prevent the ruin of the weaker producers through reckless competition, and thereby to benefit the agricultural interests connected with them.

The principal provisions of the law are as follows: —

Section 1 provides that the total sugar contingent fixed by the new tax law for 1903–4 (*i.e.*, for domestic taxation and consumption), *viz.*, 2,770,340 metercentner, shall be divided as follows: — (*a*) in general, each factory producing over 10,000 mtc. shall be allowed to participate in proportion to the greatest amount it submitted to taxation in the three years, 1898–99, 1899–1900, 1900–01; (*b*) exception is made of three specified factories which are allotted fixed amounts. New factories shall have no claim to a share in the contingent, unless they are owned by persons who are bound to cultivate and furnish the beets for the same.[2] It is also provided that where raw sugar is subjected to taxation and consumption, instead of refined, the amount by weight allowed as equivalent shall be in the proportion of 100:90. The right to a share in the contingent shall attach to the factory and shall belong to the undertaker thereof for the time being, but shall carry

[1] July, 1902; January, 1903.

[2] The bill provided at first that they must not be established within 100 kilometers of any other factory.

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no right to compensation in case it is extinguished before that time.

Section 3 provides for the participation of the raw sugar producers in the supply of sugar for home manufacture or consumption. The provisions are rather elaborate. Those factories shall be allowed to participate which operated in one of the three years above mentioned, and the extent of participation depends on the greatest "net production" (defined in the sugar tax law). The participation is, however, not proportional to the net production, the allotments of certain factories being reduced, while others are raised. The classes and allotments are as follows: (*a*) Factories whose net production is between 45,000 and 60,000 mtc., and which have no claim on the contingent, shall have a proportional share. (*b*) Factories whose net production does not exceed 45,000 mtc., and which have no claim on the contingent, shall be allowed an increase, and the degree of the same depends on which of the three following sub-classes they fall under: (*a*) between 40,000 and 45,000 shall be allowed a 3 per cent increase, provided the total does not exceed 45,000; (*b*) between 35,000 and 40,000 shall be allowed a 6 per cent increase, provided that the minimum shall be 39,000, and that the maximum shall not be greater than the minimum in the first sub-class; (*c*) less than 35,000 shall be allowed an increase up to 39,000, provided that no increase shall more than double the net production. (*d*) Factories whose net production exceeds 60,000, and which have no claim on the contingent, shall be reduced in their collective claim, based on net production, by a quantity equal to 35 per cent of the total of the increase allowed to the second class. The remaining 65 per cent of the sum last mentioned shall be subtracted from the maximum sum-total of net production of those factories which produce raw sugar and also make use of a claim on the contingent, and the remainder, apportioned according to their net production, shall be their allowance. The three factories referred to above, which are given a special sugar contingent, are also given specific allowances in the production of raw sugar for domestic consumption. Further, for new factories mentioned in the first section a provision is made, according to which their allotment in raw sugar is to be fixed by the Finance-

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minister after a hearing under certain conditions, with a maximum limit of 60,000 mtc.

Section 4 provides that the contingent shall continue until 1908 inclusive, and, if the total amount is altered, the individual shares shall be changed in the same proportion. A similar provision is made for the production of raw sugar.

Section 5 provides for the transfer of the contingent certificates; such a transfer may be made for one or more years to another party likewise possessing the right to participate. With the consent of the Finance-minister, this may also be done with respect to the allowance for a part of the year. Similarly for the privilege of producing raw sugar for a term of one or more years; provided that the sum of the rights so acquired do not exceed 80,000 mtc., or, if the two factories are within 25 kilometers, the sum of the rights do not exceed 150,000 mtc. Every transfer authorized in this section must be reported to the Finance-minister.

Section 7 provides that if in any season a raw sugar factory does not avail itself to the full extent of its right to produce, its share for the ensuing seasons shall be correspondingly reduced, unless the manufacturer shows that the deficiency was unavoidable. The disposition of such forfeited shares is intrusted to the Finance-minister.

Section 8 provides that the execution of the law shall be intrusted to the Finance-minister.

Accompanying the bill is a statistical table showing the production of refined and raw sugar and the proposed allowances for each factory. Under refined sugar there are forty-three factories listed, with a total maximum of "consumption," or taxable sugar, of 2,938,285 mtc., to which are added the three special factories with their allowances, making a total of 3,058,285 mtc. Since the contingent is 2,770,340 mtc., the share of each factory is 0.9058475583 times its maximum output of consumption sugar (the individual variation is from 14,209 to 143,477 mtc., maximum output). Under the raw sugar class (*a*) are listed fifty-one factories, with a total "net production of 2,617,700 mtc.," which is also their "scale allowance." Under class (*b*) are listed eighty-nine factories, with a scale allowance of 3,538,082 mtc. Under class (*c*) are listed fifty-four factories, with a scale allowance of

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3,280,018 mtc. These figures, taken with the special allowances of the three factories specifically provided for, give a total of 9,615,800 mtc. Since the total of raw sugar required to cover the contingent (reckoned as 100 raw to 90 refined) is 3,078,156 mtc., in order to find what each raw sugar factory can produce for home consumption, the scale allowance must be multiplied by 0.3201143950. It is evident that most of the sugar must be exported either as raw or refined.

In the explanation of this measure in the report, the government points out that it is necessary to make a participation scheme for raw sugar, since otherwise some of the manufacturers might be excluded by the refiners. The actual determination of the amounts to be allotted is not to be regulated in the law, but to be left to the administration under the norms provided in the law. The reason assigned for the exceptional treatment of three factories is, that owing to their unfavorable situation as respects transportation (*i.e.*, to the foreign market), they could not fairly be brought under the general rules. In respect to the complicated scheme for the raw sugar producers, the government explains that it was planned to protect the weaker concerns — "above all, in the interest of agriculture"; hence, also, the specially large allowances to the smallest factories for which it was intended to secure an *Existenzminimum*. Respecting the establishment of new concerns, the government says: "According to the present state of sugar production, the erection of new consumption sugar factories does not appear in any way desirable in the interests of the whole." Finally, as respects the relations of the raw sugar manufacturers to the refiners, the government observes that these can be managed best by themselves.

The bill came up for debate in the House of Representatives on January 29 and 30, and in the House of Lords on January 31. The debate throws some further light on the project. Finance-minister *v.* Böhm-Bawerk declared that protection of the sugar industry was made necessary by the sudden change in its situation, that it was essentially conservative in character, that it aimed to protect the weak against the strong, and, especially, to protect the agricultural interest. Without regulation of the output, there would occur a "life and death struggle" among the

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producers for the local market, as well as for the export trade, with undesirable social consequences in the destruction of the middle-sized and small factories.[1] The reporter of the measure in the lower house, Dr. Urban, a well-known cartel expert, did not explain the government policy in quite the same way. Instead of calling it a conservative measure, for example, he describes it as a novelty, opposed in principle to individualism, and possessing a "color of state-socialism." Dr. Urban gives the same practical explanation, however, namely, the protection of the weaker producers, though these he declares are bound to disappear in time.

The measure found a good many opponents, who declared it was a continuation of the cartel under legal protection; that it made competition, which before had been possible, impossible; and that it gave to the sugar manufacturers unjust profits. The state, it was said, became an organ, a secretarial organ of the cartel. The Finance-minister admitted that it was like a cartel, but it imitated the cartels only in respect to their favorable features, giving order and steadiness to production.[2] Speaking more particularly, the adversaries of the bill declared that it was against the agricultural interest — at least, that of the peasants, whom the measure reduced to the condition, practically, of serfs of the cartel.

The question was raised in the upper house by Graf Kevenhüller whether the contingent, like the Russian system, was not contrary to the Brussels Convention. This was earnestly disputed by the Finance-minister. The bill passed this house on January 31, 1903, and was signed by the Emperor on the same day.

Meanwhile the Sugar Cartel was being reorganized, the capital feature of the new scheme being the erection of a central selling office. The immediate purpose was the prevention of a *déroute* of the industry before the impending reduction in the customs duty, and, indeed, to exploit the existing tariff protection till the last moment[3] (*i.e.*, till August 31, 1903). The plan was com-

[1] *Kartell-Rundschau*, February 10, 1903, p. 154.

[2] *Kartell-Rundschau, loc. cit.*, p. 155.

[3] *Cf. Kartell-Rundschau*, January 1, 1903, p. 39; February 25, p. 215.

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pleted in February, and the refiners agreed to put it into operation on March 20, 1903.[1] It is provided that the Chropiner Zuckerfabriks-Aktiengesellschaft, in Vienna, shall establish a department for the sale of all refined sugar in Austria (for the campaign 1902–3). The direction of the sales-bureau shall be exercised by a committee of representatives of thirteen specified firms. This committee shall have the superintendence of the whole business, and, in particular, the fixing of prices and the control of the *personnel* of the bureau. The moneys of the bureau shall be deposited in a bank in Vienna, and be at the sole disposition of the committee. The refiners subscribing to the agreement bind themselves to sell sugar of all kinds in the inland market, solely through this bureau, from March 30 to August 31 inclusive, under penalty of 20 heller per metercentner (with certain exceptions). The price basis is fixed at 84 kronen for "*Prima Brotraffinade*" per metercentner, and for other qualities a list of 20 differentials is drawn up, and the trade limited to these varieties. Regulations are also provided for the administration of the sale. In particular may be noted the provision that the former selling agents of the factories shall be employed by the new bureau, and that, as far as possible, they shall be given the field and amount of business which they previously possessed, and receive a commission of 25 heller. The bureau shall use its judgment in making sales from the different factories, regard being had to economy in freight rates; though, as far as possible, the desire of customers for particular brands shall be accommodated. Regulations are also established with respect to the time and quantity of output for the individual factories. Retail sales of 3 per cent of the total may be made by a factory in its immediate neighborhood, but according to the cartel price, and with notification of the same to the sales bureau. The cost of the sales bureau shall be borne by the factories collectively and in proportion to rights of participation in the sale. Each factory shall make detailed reports of its business, immediately in some cases, weekly in others, and the committee shall have power to examine its books. Each factory shall deposit a guarantee of the value of

[1] *Kartell-Rundschau*, March 28, 1903, p. 318.

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50 heller per metercentner in securities with a specified party. An arbitration court is also provided.[1] Of course this agreement has no legal force, but rests entirely on the good faith of the signatories.

It is expected that the price conditions in the domestic market will be much more unstable after the Brussels treaty goes into effect, through the influence of foreign competition, and, consequently, other regulations than those made in the above agreement will be necessary. It is intended to reorganize the sales bureau on a permanent basis for the period of the treaty.[2] The confident opinion of the Minister of Finance that the contingent would not be found to be incompatible with the bounty prohibition of the Brussels Convention does not seem to be very generally shared,[3] and it is reported that the French government is convinced of the contrary.[4] This seems to be the fear also of the export trade. Thus the Hamburg association of sugar jobbers has already (February 25) notified the Prag sugar exporters' association that in case the contingent is declared to be contrary to the treaty, their contracts do not hold.[5] Similar action has been taken in London and elsewhere. The Austrian sugar export association, on the other hand, held that this eventuality was improbable (Vienna, February 3, 1903), but at the same time declared that they could not take the risk and would therefore have regard to this contingency in making purchases of raw sugar for export.[6] Offers coming from London to sugar producers in Austria, containing a provision that in case a penal duty is levied (according to the Brussels Convention) the same shall be borne by the seller, were declined at first by the sugar manufacturers, but will probably be accepted.[7] The prospect of a lower price for their export has led the raw sugar manufacturers to declare that the price of beets must be lowered; the

[1] *Cf.* detailed report in *Kartell-Rundschau*, March 28, 1903.
[2] *Kartell-Rundschau*, February 10, 1903, p. 167.
[3] *Cf.* d'Aulnis: Die Zuckerfrage in den Parlamenten Europas. *Conrad's Jahrbücher*, March, 1903, p. 349.
[4] *Cf. Kartell-Rundschau*, March 10, p. 257.
[5] *Kartell-Rundschau, loc. cit.*, pp. 255–6.
[6] *Kartell-Rundschau*, March 10, 1903, p. 256.
[7] *Kartell-Rundschau*, February 25, 1903, pp. 216–17.

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growers on the other hand seem to intend to wait till just before the harvest, and will make no contracts for the supply of beets.[1] The consequence is a complete cessation of trade in fall sugar, with no quotations on the *Börse* in Prag.

### III. *Prohibition of Sugar-Beet Rayonnirung.*

The next measure of the government, the prohibition of the sugar-beet *Rayonnirung*, followed as the natural consequence of the law just described. The measures taken to protect the sugar manufacturers, the grant to them of a legal monopoly of sugar manufacture, if allowed to stand alone, would inevitably give them an undue power over the sugar-beet growers; more power indeed than they had possessed as a simple cartel, and that had been great enough to call forth loud and unremitting demands for governmental intervention. The government was quite conscious of the probable effects of the first measure in this respect, and was prepared to meet the demands of the beet-growers by restricting the manufacturers in the despotic exercise of the monopoly which it had guaranteed to them. The government viewed the sugar-contingent law, indeed, as a measure indirectly beneficial to the agriculturists, but the beet-growers, nevertheless, must be secured in the enjoyment of these benefits by further legislation, namely, by the prohibition of *Rayonnirung*.

The *Rayon* system, to state the matter concisely, is a compact between the manufacturers by which the beet-growers or beet-growing districts are parcelled out among the manufacturers severally or in small associations in order, first, to give to each a definite and adequate field of supply, and secondly, to prevent competition among themselves in buying the beets (with the consequent enhancement of beet prices). It is therefore a scheme of monopoly on the principle of a "division of the field" — a system which is to be found to some extent in other industries in Austria, and which occurs throughout the world, especially in transportation. The outcry against the system as

[1] *Kartell-Rundschau*, March 10, 1903, pp. 256–7.

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applied to beets in Austria had particular justification for two reasons, namely, the special protection which the state accorded the sugar manufacturers, and the severity with which the monopoly was carried out. The first ground has been explained in connection with the sugar contingent; the second formed the chief topic of an inquiry [1] conducted by the Ministry of Agriculture, in January, 1903, which is the basis of the following discussion.

The *Rayon* in the non-Bohemian territories is the most complex. It includes factories in Moravia, Lower Austria, and Silesia, and is generally called the Moravian *rayon*. The combination includes six local groups which are united by a federal treaty. Within the several groups, "group treaties" are made in harmony with each other, "so that no one while acting fairly in one group can act unfairly in another and make war against it" (Proskowetz, *loc. cit.*, p. 30). In one Moravian group there exists a sugar-beet *Contingent* (p. 5). According to the general practice, more than one factory is assigned to each commune, but this does not occur in Group III (p. 30). Between the various factories within the group special treaties or contracts are frequently made respecting the division of the field, *etc.* (p. 5). The operation of these treaties is sanctioned by conventional penalties and the deposit of guarantees, while disputed claims or penalties are left to an arbitration court whose decisions the parties have bound themselves to accept (p. 5).[2] The organization in Bohemia is similar, except that there is no "federal" treaty; each district, or "*Agentie*," has its own treaty and arbitration court (p. 6). Further, it may be observed that in Moravia the price to be paid for beets is not determined by a majority vote, but each factory can fix its own price, and it appears that this power is sometimes actually exercised independently. The contracts for furnishing beets in a commune — especially where there are many small producers — are often made in a single document, but the obligation and liability is several (p. 51).

On the part of the beet-growers there was an unanimous condemnation of the *rayons*, and the manufacturers themselves made

[1] Stenographisches Protokoll über die in k. k. Ackerbauministerium am 28. Jänner, 1903, abgehaltene Enquête, betreffend die Rübenrayonnirung.

[2] Of course these agreements are void. See *supra*.

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a rather half-hearted and apologetic defense, only two of them advocating the right to make such contracts (pp. 46, 47). We may formally classify the objections against the *rayons* as follows: first, the despotic power given to the manufacturers; second, the one-sided determination of the contract; third, the one-sided obligation of the contract; fourth, the one-sided conditions of the contract and its injurious operation.

In the first case we have a general objection to the situation from a moral or social point of view. Thus, one of the most moderate among the beet-growers says: "The peasants regard the present situation, where the factories can buy only where the cartel allows, as a sort of serfdom, and they feel themselves unfree and in a certain degree morally injured thereby" (p. 53). In the nature of the case such conditions, though of great social importance, do not present material adapted to very exact analysis.[1]

The natural consequence of this situation is a one-sided determination of the contract. This is made all the more easy by the fact that the beets, to a large extent, are furnished by ignorant peasants who do not know what they are agreeing to. One grower says: "There is much reason for complaint, because the people in perhaps 90 per cent of the cases do not know the terms of the contract which they have signed" (p. 64). Some manufacturers represent, indeed, the official of the factory as coming to the village and settling the terms after a social evening with the peasants, but the conditions themselves (which we shall consider later) show how little influence the beet-grower has. In fact, these social gatherings, in which large amounts of liquor are often drunk, only illustrate the unbusinesslike character of the peasant. Even after the contract is made, the manufacturers do not always give a copy to the grower, and sometimes refuse to furnish a copy (pp. 16–17).

The obligation of the contract is often one-sided; thus, in

[1] A striking illustration of the despotic character of the *rayon* is that of a manufacturer who went into beet-growing, and was not allowed to bring his own beets to his own factory, but had to purvey them to another (p. 59). In individual cases it takes a comic form — thus, the Planianer factory sent out a circular to the peasants telling them where to haul their beets, which further says: "Wir werden Euch bestimmen, was wir Euch dafür zahlen." The peasants obeyed (p. 57).

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Bohemia the contract is drawn up generally in the form of an offer or option, by which the beet-grower agrees to cultivate beets through the spring and furnish the product to the factory in the autumn, but the factory, on the other hand, reserves the right to sign the contract until the 31st of October; that is, they can refuse to take the beets (p. 16). This obnoxious practice does not prevail in Moravia, and is condemned by the manufacturers there.

We come now to the terms and working of the contract; logically separable, practically they must be considered together. It is here that we have the gravamen of the indictment.

A much condemned practice is the advance of money to the peasant on giving the option.

More serious is the complaint with respect to the quality and quantity of the beets and the adjustment of the payments therefor. The usual practice is to contract for a certain quantity with a certain standard of quality, the seed being furnished by the factory. Neither quantity nor quality are, however, entirely within the control of the grower, the weather being an indeterminate condition for both, and the quality being also largely dependent on the seed. In order to insure a good quality, the manufacturers have undertaken to supply the seed, and this gives them an opportunity to exploit the grower, of which they often take advantage. The growers protest against the standard of quality when the factory furnishes the seed (p. 16), and to deductions for quality below the standard when no premium is paid for a higher sugar test (p. 66). Thus Pollak, a farmer in Bohemia, claims that the standard is set at 13 per cent, but that they often purvey beets of 18 or 19 per cent (p. 66). The manufacturers reply to these charges that they must furnish the seed in order to obtain good quality, and that the deficiency in sugar contents is due to the fraudulent use of other seed (p. 34). The growers deny this vigorously, though the practice is admitted to have existed formerly (pp. 18, 52, 53). It should be observed that the manufacturer has the right to inspect the fields during cultivation (in some places there are regularly two summer inspections), and this seems to afford a fairly reliable means of determining not only whether the proper seed has been used

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but also whether the beet is properly cultivated (p. 37). There remains, moreover, the sugar test by the saccharometer (p. 38). When the quality is deficient, heavy deductions are made in the price paid, though the practice in Moravia is claimed to be moderate in this respect. As for the quantity, the practice in Bohemia is to take a certain amount, and the growers claim that they are compelled to guarantee a certain quantity at a fixed price; but if the crop is larger, the manufacturer has the right to take the surplus also, if he chooses, but at a price fixed by subsequent agreement (p. 17). In Moravia, on the other hand, the contract is made to take the beets off certain areas, and the manufacturers there complain that they have to take all the burden of the risk as to the size of the crop (p. 24). They complain further, that the growers do not attempt to furnish the minimal amount agreed (pp. 42, 49), *etc.* Other difficulties arise when the beets are harvested. They are either brought to the factory by the growers, and weighed, or taken at branch dépôts, and weighed there. The regulations as to the condition of the beets, *i.e.*, unfrozen, uninjured, clean, deprived of rootlets and leaves, are necessarily strict, and give rise to many disputes and much hard feeling. The factory often makes it difficult for the grower to bring the beets at a convenient time, which may make it impossible to prevent freezing (p. 62). When it comes to weighing, and frozen, injured, untrimmed, or dirty beets are found, it is the practice of some factories (especially in Bohemia) to make excessive deductions, sometimes the greater part of the price.[1] In one case the growers attempted to control the accuracy of the weighing by scales of their own, but the factory weighing official refused to recognize the control (p. 62). The charge that the growers furnish a large part of their beets in such a dirty condition that the dirt amounts to 17 per cent of the gross weight is energetically denied by them (pp. 49, 57), and, it may be noted,

[1] The Planianer Zuckerfabrik in its circular of September 25, 1902, is both peremptory and indefinite. "Wer also eine Rübe bringt, die nicht genügend von Erde geputzt und nicht von den Seitenwurzeln befreit ist, dem wird, ohne dass man weiter viel mit ihm unterhandelt, ein weiterer Abzug gemacht. Dies bezüglich gibt es gar keine weitere Berufung; was die Fabrik ausspricht gilt" (p. 57.)

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they are obliged in any case to give, as "fair measure," 5 per cent more than the contract amount (p. 32).

Charges of breach of contract are made on both sides. Thus the growers allege that in the hard times of 1894 the manufacturers generally broke their contracts and reduced prices (p. 53); the manufacturers make countercharges.[1] They also accuse the growers of bribing their agents (p. 32).

One of the most ardent opponents of the *rayon* admits that in practice, the manufacturers have not pressed their contract rights to the extreme limit except in the bad years 1884 and 1894 (p. 22). Further, it may be noted to the credit of the Moravian manufacturers that there is a provision in their *rayon* treaty that, if a beet-grower is oppressively handled by a manufacturer, he may carry his complaint to the committee of the group in which his land is situated, and the chairman thereof is given wide authority to see that he gets his rights (p. 27). Also in one district in Bohemia a system of arbitration exists for the determination of difficulties between beet-growers and manufacturers, in which the burgomaster of the place acts as president of the court, and its operation is described as satisfactory (p. 53). Here, however, the beet-growers have the alternative of cultivating hops with equal profit.

One of the chief arguments in defense of the *rayon* is that its object is to save freight charges. Thus Abg. Kulp says that it "aims at nothing else than the saving of useless freight charges to the manufacturers" (p. 24). But the facts seem to be against this theory, since the old division of the field inherited from the close of the era of competition, which pays little attention to the advantages of proximity, is still continued (p. 54).[2]

The *rayon*, as a part of the cartel system, involves of course the maintenance of weak concerns which would otherwise go to the wall. The manufacturers claim that the preservation of a

[1] An incident is related, for example, of the tearing up of a newly signed contract by the peasants on receiving a better offer — this was evidently when the *rayon* was not in good working order (p. 30).

[2] One grower gives a specific instance from his own situation. He is half an hour from Schlan, but must send his beets to Brüx, 36 (English) miles away, and passes *en route* seven other factories (p. 19).

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large number of factories is an advantage to the grower, and that under free competition the number would be greatly reduced. The growers maintain, on the other hand, that weak concerns are injurious to their interests, because it means low prices for beets, difficulty in obtaining advance money, and delay and uncertainty in making contracts on account of the precariousness of their financial situation (pp. 34, 62).

The most important point in the whole controversy is, perhaps, the effect of the *rayon* on prices. Here also a difference of opinion is expressed, but disinterested parties seem to entertain no doubt of the real situation. The manufacturers deny that it has any effect on prices, or at least any injurious effect. Thus Abg. Kulp claims that it has no effect; that the price of beets is fixed by the sugar price in the world market taken together with the customs duty and freight charges. Evidently the weak point in this argument is the assumed relation between the Austrian sugar and beet prices. Given a certain sugar price in Austria, the real question is, what part of the total profits of the industry shall go to the manufacturers, and what part to the growers, and here with a commodity like beets the establishment of a monopoly in manufacture in Austria can have a very powerful effect. Ritter *v.* Proskowetz says that an intelligently handled *rayon* (as in Moravia) does not depress the price of beets (p. 34). On the other hand, a large landed proprietor, Abg. Damm, says that it unquestionably exercises a depressing influence through the elimination of competition (p. 39), and Dr. Janovsky, another landed proprietor, declares, "The compulsory *rayon* pursues, in brief, no other aim than to force down the price of beets through the elimination of all competition, and to hold us in complete dependence on the sugar factories" (p. 19). The manufacturers justify the prices indirectly by the claim that their profits are small; according to von Proskowetz, from 5 to 6 per cent on the average (p. 33); another manufacturer points to the frequent failures in the industry, and says that he himself makes nothing (p. 45).

The manufacturers also protest against interference with their *rayon*, while the same system is tolerated in other branches of industry, *e.g.*, milk, grain, cattle, *etc.* (pp. 29, 58, 61), and further,

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because all their materials must be purchased from cartelled industries; *e.g.*, coal, petroleum, jute, linen, *etc.* (p. 61). On the other hand, one of the chief grounds for the demand of the agriculturists that the *rayon* should be abolished was that the government had decided to establish a contingent of the sugar manufacturers, and they also should be accorded protection.

One beet-grower (Dr. Damm) called attention to the working of the provision of the contingent bill respecting the transferability of the certificate of participation. If the price of sugar rose, it meant enormous profits to the manufacturers, in which the growers would not participate; but if the price fell, the situation, instead of being merely tantalizing, would be fatal to many growers, because, in such a case, many manufacturers would be glad to quit business, and would sell their certificates and shut down.

> The case may occur, that the manufacturer sells his contingent certificate, that is, does not work up any beets. Then the beet-grower is not in the position to grow beets on his land. That signifies under present conditions simply a depreciation in the value of land, a modern expropriation, *etc.* (p. 39).

He proposes therefore that in connection with the contingent there be a provision that the certificate shall attach inalienably to the factory, and that if the operator of the same enters into any *rayon* agreement, he shall forfeit his right of participation (p. 39; *cf.* §§ 1, 5 of the law, *supra*, pp. 573–575).

Most of the growers desired a simple prohibition of the *rayon*,[1] though some growers admitted the utility of further regulation of the relations of grower and manufacturer. The administration had taken the latter view, and pressed the question on the growers whether further regulations were not desirable in order to bring about fair relations between the parties (pp. 66–7). The manufacturers claimed that if the *rayon* were abolished, the growers must be forbidden to combine against them, particularly in the form of a *boycott*.[2] To this the growers assented, although they declared that such combinations need not be feared, as they

[1] *Cf.* pp. 22, 50, 53, 54.

[2] *Cf.* pp. 42, 50, 52, 67.

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were impracticable.[1] One grower, however, declared that in certain cases combinations of growers were justifiable, and should be allowed; first, in case a factory is in such a bad financial situation, or so antiquated technically, that it cannot afford to pay a fair price for beets; second, in the case provided for under the sugar-contingent law respecting the erection of a new factory, the growers should be allowed to dispose of their crops to their own factory exclusively (p. 52). The government representatives were not inclined to accept a simple prohibition of the *rayon* as the proper solution of the problem. As respects what should be done in the regulation of contracts, there was no formulated plan presented. The growers and manufacturers seemed to think that, if it were to be done, the government could best take care of it, the abuses having been explained. The view indeed was expressed that the rules should be adapted to the needs of different localities and only general matters regulated by statute (pp. 37, 87). On only one topic was there a serious discussion, and that was whether beets should be contracted for on the basis of quantity simply, or both quantity and quality. The latter was the practice in Germany, but, although it was admitted to be desirable, some thought it impracticable in Austria.[2]

Shortly after this inquiry before the Ministry of Agriculture, the government brought in a bill (March 6, 1903) for the prohibition of *Rayonnirung*. In the explanatory report the industrial situation, the *rayon* system, the Brussels Convention, and the sugar contingent are all gone over, and the claim of the beet-growers for protection set forth. It is conceded that special legislation in the matter of cartels is questionable, but it is claimed that the case of *Rayonnirung* is peculiar, and that the abuses are of a particularly tangible character, adapted to legislative remedies. The government takes the position that the beet-growers have made a good case against the manufacturers in alleging excessive abuses, and that, against the combination of the manufacturers, they are by far the weaker party, effective combination on their side being impracticable. From this point of view, the situation is one contemplated in the law of 1870 respecting invalid agree-

[1] *Cf.* pp. 42, 50, 52, 68. [2] Pp. 24–26, 48, 55, 62.

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ments in restraint of free competition.[1] The wisdom of this law is indeed questioned, but, since that establishes the norm for industrial legislation respecting combinations, all other legislation of a partial character ought to be in harmony with its basic principle, *i.e.*, freedom of contract. The further observations of the government in this connection we may consider more conveniently after examining the provisions of the bill. This is substantially as follows:[2]

Section 1 provides that *rayon* agreements between the sugar manufacturers or directors, *etc.*, of factories, by which the beet-growers are limited to a certain purchaser or group of purchasers, shall have no legal force. The same is provided for the agreements between manufacturers, *etc.*, to respect each other's local or group treaties.

Section 2 provides that similar agreements of agents, beet-buyers, *etc.*, with each other or with the manufacturers shall be void.

Section 3 provides that agreements among beet-growers, aiming to compel the manufacturers to buy of certain growers, or to prevent them from buying from certain growers, shall be void. Two exceptions are made: (1) Beet-growers may agree to supply exclusively a factory in which they are financially interested; (2) they may refuse to furnish beets to factories which, through cessation of payments or frequent execution processes, give fair ground for such action. Agreements between beet-growers to respect each other's agreements, above declared to be void, are also void.

Section 4 provides that conventional penalties, and guarantees for the fulfilment of the same, so far as they concern agreements herein declared to be void, may be demanded back, and any agreement to leave the matter to an arbitration court shall have no legal effect.

Section 5 provides that whoever attempts to spread, or put into effect by force, agreements mentioned in sections one to three,

[1] *Vide sup.*, p. 570, Note 3.

[2] Regierungsvorlage. Gesetz vom . . . betreffend das Verbot der Rübenrayonnirung und die Lieferung der zur Zuckererzeugung nöthigen Rübe. 1678 der Beilagen, *etc. Cit. sup.*

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through intimidation (blacklisting or boycott), or by force hinders or tries to hinder the execution of free determination in furnishing or obtaining beets (so far as a heavier penalty is not applicable), shall be subject to a penalty of imprisonment from eight days to three months, or a fine not exceeding 2,000 kronen.

Section 6 provides that in the contracts for the supply of beets, (1) growers shall not be burdened with a liability for the quantity of beets agreed to be provided, and not furnished, exceeding the damage caused thereby; (2) that, in case the contract requires from the grower the cultivation of beets from seed furnished by the factory, responsibility for the quality of the beets shall not be imposed upon the grower, except in the way of proper cultivation, or cultivation according to contract conditions; (3) that an agreement that is binding for a factory at a later period than for the beet-growers, or a provision by which the factory alone can withdraw from the same, shall be void; the contract must be binding for both sides from the date of making; (4) that the provision of a contract for a one-sided reduction in the price agreed on shall be void; (5) that the agreement that the factory by one-sided determination may make deductions for defect in quality, defect in trimming or cleaning, or the non-fulfilment of the terms of the contract in other respects, shall be void.

Section 7 provides that the beet-grower shall receive a copy of the contract on demand. If the conditions of the contract are the same for all the growers of the commune, it shall be sufficient to deposit a copy with the magistrate of the commune. In case of failure to furnish a copy on demand, as provided above, the grower may make a complaint, or have a notarial copy made at the cost of the manufacturer.

Section 8 provides that certain agricultural corporations, after a hearing of both sides, and with the assent of the government, may fix rules, with reservation of §§ 6 and 7, for the purchase and furnishing of beets, which shall be effective in all contracts, unless otherwise expressly stipulated. These rules may be different in the different territories of the Austrian monarchy. The details of procedure for the establishment of the same shall be regulated by ordinance.

Section 9 provides that the rules of §§ 1 to 5 shall go into opera-

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tion with the promulgation of the law, without regard to whether the agreements affected were made before or after the promulgation. All agreements between manufacturers, *etc.*, for the carrying out of the *rayon* treaties, shall likewise lose all legal force. The provisions of §§ 6 and 7 apply to all contracts made after the promulgation of the law.

Section 10 provides that the execution of the law shall be in the hands of the Ministers of Justice, Trade and Agriculture.

The government, in its explanation of the law, calls attention to the fact, that both the civil and criminal law are applied to secure the abolition of *Rayonnirung*, and the formation of just contracts. The government observes that the bald declaration that the establishment of a sugar *rayon* is a penal offense would not be proper, if at the same time similar agreements in other lines of industry were recognized as innocent. Further, that where the principle of free contract prevails, the formation of any *rayon* — itself an exercise of the right of free contract — should not be declared a penal offense, except when, and in so far as, conditions arise of a socially injurious character. In this case the government declares that the application of the principle of nullity of contract merely, is insufficient; it adds, therefore, the provision that to attempt to put through such legally void agreements through illegal means, *i.e.*, force, threats, *etc.*, is a penal offense, and provides a special penalty therefor, in addition to what the existing criminal law provides. On the other hand, the government regards it as utterly impracticable to declare a *voluntary unanimity* of action a penal offense (pp. 8–9).

In order to abolish the *rayon* effectively, all the contracts connected therewith, both those of lower and higher strata, must be declared void, and with them naturally the obligation of collateral agreements between manufacturers based on the existence of the *rayon*. So, likewise, disappear the courts of arbitration established to decide disputes under these contracts. As it is desirable that just, as well as free, contracts should be made, the measure provides certain norms both of a positive and negative character, and provides further for regulation by the interested parties in the locality and by the administration (pp. 9–11).

Concerning the time in which the law shall go into operation,

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and the effect of the same on contracts, the government points out that it is not retroactive with respect to the agreements as to the purchase or sale of commodities (even those obnoxious to section six), but only with respect to the *rayon* agreements, and here it is necessary in order that the law should have any useful effect, since these agreements are often for a term of years [1] (pp. 10–11).

## IV. *Conclusion.*

It is remarkable that these two laws — the individual sugar contingent and the prohibition of the sugar-beet *rayon* — so little related, in fact so contrary, in principle should be united in such an intimate manner.

In regard to the contingent, the novelty of the law, irrespective of its practical significance, gives it interest. It is, as we have seen, in effect, the establishment of a cartel in sugar manufacture on the basis of a legal monopoly — the law has established what the cartel could not, an effective hindrance to the development of competition by new enterprises in the monarchy. Precedents existed for the law, in a certain measure, in the partial *Contingentirung* of the distillation of *Branntwein*, and in the *Contingentirung* of the sugar bounty, but the former left a practicable loophole in the allowance of extra production under higher taxation, while the latter left the regulation of the output to the cartelled producers. Fortunately a judgment of the law does not require a consideration of the wide and much disputed question of the merits of cartels in general. The cause, character, and also the critique of the contingent are of a special nature. The cause, we have already seen, was the desire to preserve from disaster an industry which is of extraordinary importance in Austria's internal and external economy. The establishment of a private legal monopoly, repellent as a rule to the generally accepted principles of modern political economy, was rendered comparatively innocuous here by the peculiar circumstances, namely: the operation of the law is limited to five years, *i.e.*,

[1] This bill has not yet come up for legislative consideration, but the Central Verein für Rübenzucker-Industrie has published a Denkschrift gegen das Verbot der Rübenrayonnirung. *Cf. Neue Freie Presse*, Abendblatt, April 21, 1903.

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the period of the Brussels Convention, and by the terms of that treaty the customs tariff is given a maximum limit of 6 francs per metercentner (*i.e.*, about 24 per cent on the basis of the present price — April 28). In the face of the tremendous export capacity of France and Germany it would be impossible, evidently, for the sugar cartel to exploit the consumers to any great extent through the enhancement of prices above the world market level. As a matter of fact, it is feared that the duty may not be sufficient to exclude the more capable of the neighboring foreign competitors. From a practical standpoint, therefore, the monopoly in this respect is comparatively harmless.

It is not so easy to criticise the law in respect to the limits placed on the erection of new factories. From the general point of view it seems plain enough that, taking Austria as a whole, more are not needed. Whether in a good many individual cases the restriction may not work hardship — for example, in preventing the development of industry in certain undeveloped districts, in securing for antiquated and badly managed factories an undeserved prolongation of existence — is a question that can be answered only on the basis of minute expert knowledge. Since the manufacturers must stand together in the protection of their hold on the home-market, they, even more than the consumer, have reason to fear the petrifaction of industry and the consequent increase in the cost of production. Questions as to the effect of this legislation on the spirit of enterprise, the economic independence and industrial character of the people, and on the progress of the state, give room for various views, but they are of a character too general to be discussed here.

Something more than harmlessness is required to justify legislation of such a radical character as the contingent, and, even if that is conceded with respect to its relations to the consumer, there is still the grower to be considered. It does not seem quite clear that it was necessary for the protection of the industry from extravagant cut-throat competition in the home market. Competition from new concerns does not seem very probable, at least on an extensive scale, and competition within the cartelled concerns does not appear to be so undesirable. The industry is pretty sure to receive a heavy shock, in any case, under the new

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*régime*, and the perpetuation of artificial regulations to support weak concerns in a precarious existence seems scarcely worth the effort. Without the contingent the continuance of the cartels would be doubtful. Bruker, writing a year ago, predicted their general collapse.[1] Apparently his prophecy will be realized in the case of the German cartel, judging from current newspaper reports of the situation.[2] It appears that the German sugar interests have even tried to induce the government to give them aid similar to the Austrian contingent.[3] It might be thought that if the manufacturers found it worth while to combine for a large profit, they would still rather have little than none. Bruker predicted that there would be a contraction of beet-root cultivation,[4] but the event seems to be contrary to the probability. The latest expert estimates give increased totals, particularly for Austria.[5] It would be still more difficult to make predictions as to prices, yet it may be taken for granted that the price in the world market will rise, and the price in the national markets fall. Under the great uncertainties that exist in respect to the whole situation, the value of the contingent as a protective measure seems questionable on practical grounds. On the other hand, one cannot help wondering if the accomplished economist who is at present at the head of Austria's finances has not some wider purpose. In his defense of the contingent he styled it a "conservative" measure at one time, and at another, "progressive." We can reconcile these expressions, if we conceive him to have a plan for the economic reorganization of the state on non-competitive principles. From that standpoint the measure is conservative, but from the standpoint of the existing economic organization and public law, it is certainly a radical, if not a progressive, measure.

The contingent, we have seen, is based upon the principle of monopoly; the prohibition of *Rayonnirung*, on the other hand,

[1] Bruker, Zuckerausfuhrprämien und Brüsseller Vertrag, *Jahrbuch für National-Oekonomie und Statistik*. III Folge. 23 Bd. 1902, p. 490.

[2] *Cf., e.g., Berliner Tageblatt*, Abendblatt, April 27, 1903.

[3] *Cf. Kartell-Rundschau*, January 25, 1903, p. 113.

[4] *Loc. cit.*, p. 468.

[5] Licht's Bericht, quoted in *Berliner Tageblatt*, Abendblatt, April 18, 1903.

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rests upon the principle of free competition. In one and the same legislative scheme the government applies two opposite, if not hostile, economic principles. To be consistent, the sugar manufacture should have been left to free competition, or the government should have established a contingent of growers. The former would not have prevented the cartel from establishing a monopoly and exploiting the beet-growers; the latter under present economic conditions is evidently out of the question. Given the sugar contingent (or cartel), therefore, the prohibition of *Rayonnirung* and the maintenance of free competition in the purchase of beets seems to be the only desirable course. A doubt may well exist, however, as to whether the prohibition of *Rayonnirung* is a fair equivalent for the contingent. The pre-existing law (which is still in force) made such agreements between the manufacturers without legal effect, and whether the present law goes beyond this sufficiently to make them impossible is in the highest degree doubtful. Such agreements can still be made as before on the basis of commercial faith and credit, and they become offensive to the penal provisions of the bill only where extraordinary means are employed, such as intimidation, boycott, *etc.*, in connection with them. This also was decreed in the pre-existing penal code.[1] The possibilities offered by this pre-existing law for the restraint of cartels have been realized only in the last few years. Menzel's views presented to the Verein für Socialpolitik in 1894 were regarded as a novelty in the interpretation of the statutes, and even after the courts had taken the same grounds, in subsequent adjudications, their correctness, as a matter of legal science, was disputed.[2] On this ground an unambiguous declaration of the law is of undoubted value. The government went perhaps as far as it could under existing conditions, but judging from past experience, great hopes cannot be encouraged of its practical effectiveness. The solid and promising part of the law appears rather in the rules respecting contracts (§§ 6, 7).

[1] Menzel, *cit. sup.*, p. 19.

[2] *Cf.* Hitchmann; Cartelle vor Gerichte, *Handels-Museum*, November 16, 1899; Urban; Industrie und Landwirtschaftsrath. Bericht des Referent enthaltend Vorschl¨ge für eine gesetzliche Regelung des Kartellwesens in Oesterreich. Erstattet in der Sitzung des Kartellcomités am 19. Jänner, 1901, p. 23.

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By sweeping away a lot of these abuses, which afforded indirectly many opportunities for the exploitation of the growers, the government will not only better their situation, but will also effectually concentrate the whole contest between them and the manufacturers on the question of prices. Exploitation of the grower evidently existed to some extent under the cartel, but was limited by potential competition; under the contingent it seems a still more dangerous possibility, provided, of course, the government goes no further in the matter. But here the manufacturers have to take account of the fact that the whole business will be under close supervision of the government. If the growers could combine against the manufacturers, they would not need to fear either the cartel or the contingent, but this they have not been able to do as yet, and it is made more difficult for them to do it now by the *Rayonnirung* bill. Though combination on the basis of commercial faith and credit stands open to them, as well as to the manufacturers, the situation is by no means the same, because the growers are to a large extent peasants, that is to say, numerous and ignorant, and practically incapable of such combination. The prohibition of boycotting, touching which the views of the Austrian courts seem heretofore to have been somewhat uncertain, deprives them of perhaps their only effective (however improper) means of industrial warfare. It is easy to oppose to these criticisms that the permission given to the growers to establish factories of their own solves the whole difficulty. Possibly it is a way out for the large growers, but even here it is quite doubtful. For the small growers — the peasants — the permission seems to be of little or no value. They may well prefer to be exploited by a manufacturer than to undertake a speculative enterprise for which they are not fitted, and which would be likely to cost them much more.

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SUPPLEMENTARY NOTE. — Since the above article was written (April, 1903), certain important events have occurred which have considerably altered the sugar situation. The wide-spread view that the law regulating the individual production of sugar was not in harmony with the Brussels Convention received confirmation through the decision of the

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Commission established by the treaty (June 20, 1903). Of all the delegates only those from Germany supported the Austrians in their claim that it was consistent with the treaty. It seems to have been intimated, however, in responsible quarters that such a condemnation would not follow in the case of a private cartel.[1] The Austrian Government was therefore practically forced to abolish that part of the law, *i.e.*, the law concerning the regulation of the individual distribution of the contingent. This was done on August 4, 1903, by Imperial Ordinance.[2] A similar measure for the regulation of the individual quotas in the Hungarian parliament had not passed the final stages of legislation when the decision of the Brussels Commission was announced, and the Hungarian sugar export, therefore, had not been discriminated against in the world markets. The present situation is rather chaotic, especially as the law fixing the quotas of inland consumption for the chief divisions of the monarchy is still in force, while the provisions for its adequate execution are wanting. The present relations between Austria and Hungary do not seem to be favorable to a prompt settlement. The producers themselves, however, seem determined to continue or reorganize their cartels and thus to prevent a return to conditions of unrestricted production. Many predicted, both in Germany and Austria, that under the low duty provided in the Brussels treaty, cartels would be impossible, unless supported by the authority of the state. Nevertheless they have been continued or re-established in Austria, Hungary, and Germany.[3] The Austrian cartel includes refiners only, as they have not been able to come to an agreement with the raw-sugar interests. In August it comprised only four-fifths of the refiners, but since then the importance of the outsiders has been greatly diminished by new adhesions.[4] The press reports a meeting of cartel representatives of various beet-sugar producing countries at Brussels, July 6 and 7, 1903, which considered the question of regulating the export internationally.[5]

The bill prohibiting the formation of sugar-beet *rayons* has met lively opposition from the manufacturing interests. The Verein für Zuckerindustrie in Bohemia, in a meeting at Prag on June 27, made

[1] *Cf. Kartell-Rundschau*, July 12, 1903, p. 736.

[2] *Cf. Kartell-Rundschau*, August 12, 1903, pp. 813–14.

[3] *Kartell-Rundschau*, August 28, 1903, p. 857; September 28, p. 913; October 12, p. 970.

[4] *Kartell-Rundschau*, August 28, p. 857; September 12, p. 893, 1903.

[5] *Berliner Tageblatt*, July 9, 1903; *Kartell-Rundschau*, July 12, 1903, p. 737; and July 28, p. 785.

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a protest against its passage as an insult to the raw-sugar manufacturers, and as particularly uncalled for, since the abrogation of the contingent was expected.[1] It remains to be seen whether the government will procure its passage in the coming legislative session.

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[1] *Kartell-Rundschau*, July 12, 1903, p. 737.

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## MONOPOLY AND THE STRUGGLES OF CLASSES.

A CERTAIN clerical socialist used to preface his public addresses with the statement, "Society is under conviction of sin." It certainly is under an indictment, and is inclined to plead guilty on some of the counts. It is not perfect, and it owns the fact. The socialist's theological term, however, implies that society is conscious of being in a state of "total depravity," and confesses by implication that it needs to be destroyed and made over. Its very principle of action is, in this view, so bad that nothing can save the organism but a new creation.

In this sense the accusation does not seem to many people to be true, and the revolutionary change that the socialist calls for does not seem to be impending. What we must admit, however, is that the principle of monopoly is a bad one, and that in the business world it is becoming too nearly dominant. Trusts are seeking to create monopolies of products, and trade unions are trying to establish monopolies of labor. Does this movement really tend towards the absorption of all industry by the state? Appearances favor the side of those who maintain that it does so, and tell seriously against those who believe in the permanence of private business.

Many are ready to say offhand that we have already given ourselves over to private monopoly, which stands for oppression and all evil, and that the only possible escape from impending disaster is socialism. Business is anything but free, when, in many a department, a single corporation has the field so nearly to itself that its few surviving competitors are at its mercy. The multi-millionaire who controls such a corporation is the modern counterpart of the great baron of feudal times. The field of his operation is industry, and the trust furnishes his particular domain. One of the most effective criticisms of society as it now is, bears the title, *Our Benevolent Feudalism*, and it makes much of the analogy between Europe under barons and America under industrial magnates.

With this seeming disappearance of competition, there has



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come a willingness on all sides to admit that while it lasted it was a power for good. When the enemies of the present order gleefully remark the departure of competition, they in reality pay to it a posthumous tribute. "Now that it has gone," they say, "the social state is becoming too bad to be endured. *Ergo* socialism." There is now little disposition to deny that the neck-and-neck rivalry of producers who are striving to undersell each other has cheapened production, which is the same thing as making labor fruitful. It has brought about a dazzling series of mechanical inventions whereby, in many a department, the product of a day's work has been multiplied by ten, and again by ten. It has worked, moreover, with a certain rude honesty, — though not every one will admit this, — since it has tended to give to each laborer what he is personally worth; and where it has not actually given it, the reason has been that the natural tendency has been thwarted by adverse influences. A good system may always be made to give an imperfect result, if the natural movement of it is here and there disturbed and obstructed. Competition has never worked in a perfectly free and unhindered way; but so far as it has worked, it has tended towards wealth, progress, and a rude approach to honesty in the sharing of the fruits of progress.

For monopoly there is no such thing to be said. He would be a bold attorney who would take a brief for it at all, and an infatuated one who would expect to defend it successfully before the great jury, the people. At the bar of public opinion it is condemned and outlawed, but unfortunately it is not actually banished. In spite of a universal protest, it is grimly asserting its power, and the issue of to-day, in which all others merge, is whether we shall rule it, or whether it shall rule us. For if we cannot rule it except by taking monopolized industries into the hands of the government, we shall in the end do even that. The logic of socialism is unimpeachable, if you grant its minor premise; for its major premise is one in which we are all agreed, — the statement, namely, that a system of business founded on private monopoly is intolerable. Add, now, the proposition that the present system is thus founded, and you prove that this system is one which must, at all costs, be swept away; and if there

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is only one way to do this, — through governmental absorption of our industries and their management in the name of the people, — that way must be accepted. On its face the situation makes a strong plea for such a change, and wins thousands of converts. When we look a little deeper, we shall see that the action of monopoly in another sphere creates a practical barrier against a radical change of this kind. The trade union may seem friendly to socialism, but in principle it is opposed to it.

Are we, or are we not, given over to a régime of private monopolies in business? There is another syllogism which is here applicable, though in this case there is not a general agreement as to the truth of the minor premise, which is that a complete system of industries conducted by a democratic state would have results that would be intolerable. The major premise here is that the American people will never accept an intolerable situation, and the conclusion is that they must and will avoid the necessity for such a great public monopoly by curbing the power of private ones. Critics will declare that the people cannot do this, and the question whether they can and will do it is the one that is superseding all others in marshaling parties and giving shape to the struggles of classes. As between submitting to what is intolerable and doing what is impossible, an energetic people will do the impossible. They will make a way to do to-morrow what they cannot do to-day; and this probably means that they will fight it out on the line of regulation though it take many summers.

The whole attitude of classes towards each other has been transformed by the advent of the great monopolies. Socialism has gained supporters for the moderate parts of its program. It has itself learned to become evolutionary and Fabian, and to try to gain one point at a time. Whatever may be its ulterior views, the battles in which it can hope to have practical success are fought with the aid of men who have little sympathy with its ultimate aims. There is rapidly coming into the field a big auxiliary force which will fight effectively for a few things and then stop, leaving the pronounced socialist to continue his fight unaided.

Socialism began its career by "hitching its wagon to a star," — by holding before the eyes of its followers the vision of a trans-

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formed and perfected universe in which wrongs should be done away with and equality and fraternity should rule. The early philosophers of the school included in the picture a transformed man as well as a renovated society, since they perceived that evil must be taken out of human nature itself if the full results of the new system were to be realized; and there are those at present who will accept nothing less than this. They dread and repudiate the tendency to make small gains, and wait for the great ones. They denounce whatever is Fabian and opportunist, and insist upon everything or nothing. A few of them, the more consistent and less practical ones, decry trade-unionism itself, since it involves making terms with employers and sharing gains with them, — a policy which gives to the wages system a license to continue. Logically these men are the truest socialists, and yet it is clear that without the help of the trade-unionists they can accomplish nothing. If the great mass of those who favor bringing the state into the industrial field were reduced to this radical and consistent nucleus, it would become what has been called "a nice little, tight little party," much too small to count in a political election.

Now the action of different classes and the character of their struggles with each other will be governed, in the near future, by their attitude towards the immediate issues created by monopoly. The main effort of a powerful body will be expended in trying to realize the preliminary part of a socialistic program, and here will be seen that mingling of regulars and auxiliaries which makes this army formidable. It contains many who never think of abolishing private capital, and who will surely draw back when the line of contention moves forward and the changes demanded become radical. There are in the force two distinct classes whose interests will impel them to drop out of the ranks when the march goes beyond a fairly well defined boundary. Is, then, the socialistic army getting large and dangerous? It is getting large, and therefore less dangerous than it might be; for it is gathering into its ranks elements that will disrupt it when it attempts to do the more perilous things.

Who are the classes who thus mean present help and future trouble for the socialist party? Are there laborers among them?

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Radical socialism has been defined by one of its leaders as "the political economy of the suffering classes," but that does not necessarily mean the political economy of the working classes. In a way all workmen are united, both in feeling and interest, against capital, since all of them want to make wages as high as they can at the cost of employers; yet it is very clear that they are not all in such a state of suffering that they can afford to throw away the advantages that they have. There have always been workmen whose skill has kept them well above the line of privation: there are now workmen whose organization keeps them there. Skill counts for less than it once did, but organization has supplemented it as a means of creating an aristocracy of labor. The important question is, whether this favored body will, to the end, make common cause with the more democratic one? If organization causes some workingmen to thrive *partly at the expense of others*, there are limits to the extent of the co-operation of the two classes. Whether the gains of some are thus partly at the cost of others depends upon whether the different trade organizations are or are not monopolies. It is commonly said that most of them are so; and, if the statement is true, there must be something about the working of them that is contrary not only to the public interest, but to the interest of the remainder of the working class itself.

The whole relation of trade organizations to monopolies ought to be better understood than it has been. If there is such a taint upon them as current descriptions imply, it is not altogether their own fault; for with monopolies on the capitalistic side forming all about them, the temptation to get some of the benefits which they insure is irresistible, and inevitably one of the foremost objects of the trade union will be to force employers to give them a share of the "grab" which they are getting for themselves. The trust thrives by a price-raising policy. It keeps down the output of its goods in order that it may raise the market rate for them, and, in doing this, it shuts up some of its mills, and turns off some of its men. This naturally has the effect of depressing wages in the general field. The trust, whatever it nay profess, aims to be a monopoly, and cannot be so without reducing the real wages of men outside of its own employment.

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It is perfectly natural, then, that the men in the trust's employment should wish to fare better, and to do so by getting a share of what the public is made to pay. This involves, indeed, participating in tainted gains; but the taint does not, in the first instance, adhere to the laborers. There are few persons who will say that, where a monopoly has already cut down its output of goods and has begun to realize its extortionate returns, its employees should hold their hands and refrain from getting as large a part of these gains as they can. In doing merely this, they do not make the burden on the public any heavier. Naturally they organize, and bring pressure to bear upon the trust; and this body, having a hostile public to face, is willing to avert any further attack. It wants no fire in the rear; and, if moderate concessions will keep its men quiet, it will probably make them.

It is possible for a strong organization of workmen, of their own motion, to make a trust pay something that does not thus come out of its own gains. "Give us an advance in wages, and charge it to the public," is often the demand tacitly or openly expressed; and, in this case, the men are not merely asking for a part of what the trust is already charging to the public, but are proposing that the corporation should keep all that, and make a further charge for the men's benefit. And at this point, therefore, wages begin to show a monopolistic color of their own. This creates an issue between these particular men and the public, and it is of importance to discover what classes really compose this tax-bearing public. Very largely it consists of workmen who are not getting monopolistic profits of any kind. Whenever we say "the public," in this connection, what we necessarily mean is a body of people the majority of whom are laborers; and the demand for a concession at the cost of this public raises a sharp issue between labor that is strongly organized and the great mass of independent labor. Inherent in the situation is the motive impelling trade unions and trusts to form tacit alliances with each other to assure the gains that come by raising prices, and every such alliance makes one body of workmen help in oppressing another body.

Now a trade union may go even farther than this, and in a purely selfish way it may gain something by doing so. It may

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create a monopoly that is wholly its own. If a union in a building trade gets secure possession of a local field, and completely excludes outside labor from this territory, it is able to establish its own schedule of pay, and make employers concede it. So long as contractors are not in a combination, they have no means of securing for themselves any monopolistic profits. They are forced to make their estimates of the cost of buildings larger whenever the scale of wages is raised; and the greater part of what the public pays in the way of enhanced cost of building goes, in this case, to labor rather than to capital. The competition of the contractors with each other, so long as it lasts, prevents them from getting much of it.

The claim that organization can greatly benefit workers is no myth, if it means that it can keep the pay of men in the unions above the level of the pay of men outside of them. So long as the men on the outside are a part of that vaguely defined public which, patiently or impatiently, pays the bills of every kind of monopoly, they clearly have a certain tax to pay to the workmen who are in the monopolistic circle. This opposition of interest between labor in a unionized trade and other labor is irrepressible, and does not by any means confine itself to cases in which free laborers take strikers' places. In the struggle between the union man and the scab, antagonism is, indeed, carried to the final length, and creates the greatest conceivable bitterness of feeling. The scab, however, is to be distinguished from the non-union laborer of the ordinary sort. He never appears while the tacit alliance between a trust and a trade union is in working order, but comes only when such an alliance is temporarily broken. He comes then as a "boss's" man to help fight the union, while the ordinary non-union worker has no open issue with it. Quietly and indirectly, however, he pays his share of the tax which the union and the trust impose for their joint benefit. The worker in an unorganized trade has nothing to do with the monopolistic boss, and he does nothing to make the trade-unionist dislike him. He is a submissive payer of tribute, and yet this very fact makes him, when he sees where his interest lies, the natural opponent of all monopolies, whether of labor or of capital. In proportion as the "grabs" become larger and the public feels the

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burden of them, the laborers who are in the rank and file of that public will more and more clearly see the rift that divides them from the men who profit by the tax which they have to pay.

Would trade-unionists, then, consent to the plan of sweeping away the whole system of private industry, and putting everybody into the employment of the state, which will have to treat them all alike? Not so long as they are governed by the interests of their own particular classes. Favored trades would lose by such a democratic leveling, and in the long run it will be found that they are poor material for socialistic propaganda.

The attitude of different trades toward socialism is interesting, and the grounds for their attitude in different cases may seem puzzling; but at bottom the dominant motives are simple enough. The union which stands by socialism through thick and thin will be the one that fails to hold its own in the struggle for mutual taxation. Stronger unions will make monopolistic gains at the cost of "the public," and the union which favors collective industry and a general leveling will be the one that is a part of that public. It tries to recoup itself by taxing still others; but if it fails, and is remanded to the tribute-paying rather than the tribute-collecting half of society, it will vote for the leveling measure. The union which collects an ample tribute will not do this when the leveling is really imminent.

While socialism is only "in the air," this line of demarcation is not clearly drawn. Many a strong union is willing to join in the demand for the nationalizing of all industries so long as that measure seems remote, and it is willing to demand the nationalizing of some industries in any case. Such unions consider all workers in a general way as brothers, and all capitalists, in the relations of the market at least, as enemies. They are carried along by a general trend of feeling which often thrusts interests into the background; and when they act on the basis of interest, they may be misled by an exaggerated idea of what the government could do in the way of raising wages, if it took charge of every kind of business. Most workmen think that employers, as a class, are getting far more than they actually get. The important question is, how far will such motives make them go if the state yields to pressure and takes one industry after another

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into its hands? In the long run real interests rather than imaginary ones will make them part company with the less fortunate masses, to whom socialism makes a really cogent appeal.

The interests of successfully organized labor and those of other labor permit them to work together in certain preliminary steps in the socialistic movement. Laborers might all rejoice together in seeing municipalities operate street railways and lighting plants, and in seeing the general government take possession of railroads and mines. Many of the employees of such monopolies could afford to take their chance in public employment rather than in private, for they would expect short hours and high pay under the government. But would trade-unionists who are employed by manufacturing trusts favor giving them all over to the state? Not unless they could be sure that the government would treat them as well as they can force the trusts to treat them. They should have misgivings on this point, for the more kinds of business the state has to carry, the more difficult it will be to keep up in them a high rate of pay and short hours of labor. In a few cases the government could do this since, if the industries in its hands were run at a loss, it could collect the deficit by imposing new taxes, or by putting still higher prices on the goods it has to sell. It could give short hours and high pay to men on railroads and to those in mines, if there were not too many of them; but the more there were of them, the bigger would be the sum it would have to exact from the rest of society, and *the smaller would be that remainder of society which would have to pay the tax.* This is the essential point, and it shows that, if trade unions are at all successful in their present policy, they can never afford to abandon it for complete socialism. A government can always pay high wages in a few occupations, since it can take something out of the pockets of many men and put it into those of a few; but it cannot, by such a process, fill everybody's pocket. When a trade-unionist finds himself urged to join in putting everything into the hands of the state, he will see that, if he thrives at all under the present system, destroying it would mean exchanging two birds in the hand for one in the bush. Only by making industries phenomenally productive could the state give large pay to everybody; and with

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the "go-easy" plan of labor which a government would be forced to adopt, he would be a sanguine man indeed who would expect such an increase of productivity.

Socialism is nothing if not ultra-democratic; and if it is ever realized in practice, it will mean the obliteration of every such distinction as that which strong unions maintain between themselves and unorganized laborers. That distinction, as we have seen, is due partly to a tax, since high prices for goods which the unions make are one of the means of maintaining it, and every such tax is hostile to the democratic spirit. Taking railroads into the control of the government would enable the state to pay laborers on them well; but the public would have to stand the cost of this, either in the way of costly traveling, or in that of heavy taxes. Taking all industries into public control, and raising everyone's pay to a satisfactory point, would take a larger income than the state could get from any source.

Of course there is always the resource which a confiscation of all capital would give. A government that should resort to this measure might add to wages the gross profits of the capitalist class; and a point that any body of workmen must consider, is how much would this add to their own wages? Even such statistics as are now available show conclusively that it would not give to workers generally as high pay as successful ones now get. Monopoly is more profitable than democracy for the strong trade union. Even a successful union might be willing to have the state take possession of its own industry, if it could be assured that its present pre-eminence over other labor would continue; but under general nationalization the very opposite would be the actual result. A leveling of wages would certainly be demanded; and the question that a union laborer must answer, whenever a project for complete socialism is before him, is, "Will you share your gains with the mass of more needy men? Will you make common cause with the cheap labor which immigration has given us in abundance?" It will require a heroic altruism to say "Yes."

Could a government possibly give high pay to everybody? If it were to strip capitalists of everything that they have, could it get a grand dividend large enough to make every worker happy?

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This is a vital point, and statistics need to be more complete than they are in order to answer the question accurately and conclusively; but such figures as are available show that pulling down the rich would lift the poor far less than most of them imagine. The trouble lies in the fact that workers are terribly numerous; and when they all have a claim on a sum of money, it takes a vast one to go around and give each one something. The income from the biggest private capital might possibly give to every American a fifth of a cent a day, and the income from all the capital in the land might possibly, on a very liberal calculation, suffice to raise wages sixty per cent above their present average. The resulting rate would be far less than the more fortunate workers now get; and these men, like the capitalists, would be pulled down by a general leveling of incomes. It is this hard fact which may be trusted to prevent them from favoring such a measure, if it were ever practically before them. A "class consciousness," and a broadly fraternal feeling which includes everybody who labors, all workers may have; but the highly paid ones will halt when, under the influence of this feeling, the army is marching straight to the goal of complete equality. Monopoly, first on the side of capital and then on that of labor, has given to these men something that they will not knowingly sacrifice, and while they keep it they have a large stake in the present order.

If some laborers who favor socialism in theory will shrink from having too much of it in practice, capitalists will certainly do so. Many of them are in despair over the problem of regulating trusts, and are saying that the state will have to take them and have done with it. Many a man who owns industrial shares would gladly exchange them for bonds of the government bearing a smaller rate of interest. Farmers might like to see the state take over the railroads, the mines, and the banks, but they would expect it to pay for them. These seeming auxiliaries of socialism are merely anti-monopolists; and there is no communism in their creed. They want no abolition of private property; and for every industry that the government takes into its hands it must honestly pay, if it is to have their support. Clearly, they will not go far along the route that leads to the socialistic goal.

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The fact about the powerful drift toward socialism is that three different classes are for the moment carried along in it. There are the socialists proper, — men who will not shrink from the abolition of all private capital. There are some organized laborers who are united with the more radical party by sympathy, but separated from it by interest. There are honest holders of property who see that monopolies must be controlled, and think that nationalizing them is the only way to do it. Both of these latter classes will part company with the first when the dream of a community of goods begins to look like a reality. The three classes, in fact, are pursuing different paths, which happen at one point to intersect. Each of the parties wants public ownership of a few monopolies, but when that has been secured they will go their separate ways. Their union gives to socialism a temporary strength.

If the government should do the common carrying and some mining, it would not thereby abolish or weaken the wages system. In the general field, employers and employed would have their issues to settle, and both would have issues pending with the public. The bit of nationalizing which we may conceivably do will leave the greater problems of industry where they are, and we shall have to solve them as we should do if no socialism had ever taken practical form. The struggle over wages is fundamental and permanent, though monopoly has given it a new shape by drawing a sharp line between different classes of laborers. It is possible here only to state *seriatim* a few leading facts concerning the new form of the old contest between industrial classes.

(1) Collective bargaining is now the rule, and monopoly has made it possible to carry it out on the plan of "paying and charging to the public." A single competing employer cannot raise his prices without letting his business go to his rivals, but a trust that has no rivals to fear can do this with impunity. Contracting with such an employer for higher pay either makes him divide what he now gets from the public, or compels him to get more and make it over to his men.

(2) The strike is the means of forcing the employer to do one of these things; and while monopoly makes the strike a promis-

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ing expedient for the men, and even an endurable one for the employing corporation, it makes it a disastrous one for the public. The strike may shut up nearly all the mills in one line of business, and this disrupts the whole producing organism. There is no measuring the cost of that paralysis of business which this can occasion.

(3) The injury suffered by the parties in the strike is the chief motive that is acting to induce them to adopt expedients for maintaining the peace; but the terms of peace so secured are likely to be costly for the public. Joint agreements for adjusting the scale of wages, and plans for conciliation and for voluntary arbitration, furnish the more hopeful side of the situation, from the point of view of the parties engaged in the strife. For the public they are preferable to a state of constant warfare.

(4) Joint agreements and sliding scales mean, under a régime of monopoly, something radically different from what they formerly meant. Before employers were united in trusts, a sliding scale signified that, if the market price of a product should naturally go up, the men who made it would get a share of the gains that the rise would bring. Now it is likely to mean that employers shall put the price up and share proceeds with the men. Employers and men become jointly interested in the price-raising policy, and it is a curious fact that the men, by their strikes, are clubbing their employers into such an alliance with themselves. The party that pays the charges is the helpless though not patient public, and this fact gives a sinister quality to the peace which is so secured.

(5) There is opposition to every scheme for arbitration which has a trace of authority behind it. Why is this? Because there is a fear that an authoritative tribunal might give to strong unions less pay than they can get without it. It might take the interests of the public into account, and make it harder to carry out the pay-and-charge plan. Conciliation "keeps quarrels in the family," and "does not allow outsiders to have anything to say about our wages;" while the fear is that a court established by the state might scale down the special wages that strong unions are able to get. Whether this would be done or not would, of course, depend on the rules which might be established for gov-

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erning the court's action, and it would be entirely practicable to make rules which would prevent a court from acting in this way. Where a monopoly profit already exists, the court might even help the men to get some of it, and it might thus make it possible for the men to get an advance in wages without taking it out of the pockets of the people.

(6) The sustaining of unnatural prices involves force on the employers' side. It is necessary to club competing producers off from the field, and the mode of doing it is as hostile to the spirit of law as it would be if the thing were done with literal cudgels. Inefficient producers are driven out of the field even by fair competition, but the trust is driving off efficient producers, and is doing it by unfair competition. It has its own predatory methods, and its ill-omened power comes from the use of them. Stop predatory competition, and you simplify the whole situation, and make possible a reign of justice. Toward this consummation it is to be expected that with halts, blunders and retrograde movements we shall make our way.

(7) The sustaining of exceptional rates of pay, not by skill, but solely by organization on the workers' side, also involves force. The "persuasion" that is used to keep men out of a trade union's field is of a kind that has force in the background even when it does not come openly into the foreground. So long as unions vacate places of employment which other men are glad to take, it will require something positive to keep the other men from doing it. The unions claim a right of ownership of their positions even when they are out of them and when the community is suffering because of that fact. The thing to do is to enable the unions to get all they are entitled to in an orderly way, and without stopping production, or fighting off men who want to carry it on; and this can be done only by some kind of arbitration. If voluntary tribunals will do the work, well; if not, we shall be forced to look farther and find some which will do it.

(8) A proletariat we shall have in any case. No courts that will be established will level out the differences between the pay of organized labor and that of unorganized. While common laborers earn in foreign countries less than they do in America, notwithstanding the restrictions that are here put on their field

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of work, they will continue to come here. The immigrant will get more than he gets at home, and less than other men get in America. The system which holds him in this position is undemocratic in so far as its effect in America is concerned. Free immigration makes it impossible to have equality between classes of laborers. It is not to be desired that the highly paid men should be forced downward to the immigrant's level; and yet it is not to be permitted that they should hold themselves up and keep him down through a reign of club law. This one fact causes the word ARBITRATION to be written large over the whole system which monopolies of capital and of labor have created. This does not mean compulsory arbitration, as that is commonly understood, but it does mean some effective appeal to justice. This will not do everything, but it ought to insure civil order, continuous production, a large wage-paying power and some approach to a true democracy.

(9) What kind of tribunal is needed, and, in particular, what principles it shall follow in making its awards, are the vital questions which remain to be decided. Though there is no room in the present paper for the discussion of these questions, it is safe to assert that the coming system is revealing its general outlines. Joint agreements, sliding scales, conciliation and voluntary arbitration will be allowed to do their full part; but there will be means of insuring peace with justice in the cases where they fail.

(10) The new condition will not put an end to socialistic agitation, but it will reconcile so many classes to the present order that the agitation will have no radical effects.

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# THE DIVISION OF GOVERNMENTAL POWER IN ANCIENT GREECE.

HISTORICALLY, facts and theories are inseparably connected. The facts first give rise to the theories, and the theories then react on and modify the facts. Both are alike historical phenomena. And it seldom happens, even under foreign influence, that the theory gets very far ahead of the facts, notwithstanding its usual claim to issue from pure reason and to possess eternal and absolute validity. Both facts and theories must therefore be duly weighed and considered in every institutional investigation.

The expression "division of power" has a double meaning. In the narrow and technical sense it indicates the allotment of separate functions to separate organs; since Montesquieu, this sense has tended to exclude all others. But in common usage the expression covers also the participation of several organs in the exercise of the same functions; and in this usage as in so many others, the common sense reflects the actual relations better than does the technical. For power is as truly, though not as completely, divided in the latter case as in the former. And historically speaking, this broader sense is alone justifiable. Montesquieu's famous disquisition on the division of power, like so many of the eighteenth-century writings, clothes theory in the guise of history, an ideal in the garb of reality. The theory proved immensely stimulating, and served powerfully to emphasize the importance of individual liberty and the means to its attainment; but it has resulted in a total perversion of history, through which it has been itself discredited. The error is very like that committed by the classical school of English economics, and the analytical school of jurisprudence. It consists fundamentally in ignoring the relative and historical side of institutions, in setting up a conception and a definition which apply only partially in the present and not at all in the past, as an infallible touchstone for all times and places. For the clear-cut separation of functions which Montesquieu described never did



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exist, not even in the English constitution; it was merely what he considered ought to exist, and ultimately would exist when the tendencies of things should have worked themselves out.

Historically, the course of events in the development of a political system is as follows: — First, the different social forces secure to themselves different representatives in the government; second, each of these representatives draws to itself more and more of such functions as it is peculiarly fitted to perform; third, the structure which has thus arisen without conscious forethought is recognized as serving a rational purpose; that is, the division of power is seen to be beneficial. It accordingly becomes henceforth a conscious object in the organization of governments, and the division is carried out with a consistency and rigor hitherto unknown.

It is sufficiently obvious that to attend only to the third and last step, and limit the expression "division of power" to it, is to render the whole process meaningless. Moreover, the distinction between the different kinds of power, which this Montesquieuan view pre-supposes, is merely relative; no hard and fast line can be drawn that will apply in all times and places. And the further back towards primitive conditions we go, the more do we find all functions of government and all organs of government confused and blended together. It is exactly as in the animate world. In both institutions and living organisms, we find at first scarcely any differentiation of functions, or of organs; the body is homogeneous, and each part performs indifferently the same acts as all the rest. But development is accompanied by an ever-progressive specialization of functions and of organs for the exercise of these functions. The division of governmental power is to be conceived as a part of this general process; only thus does it become intelligible and stand forth as an historical fact of the first importance.

The patriarchal family, which was long supposed to be the original social and political unit, is now recognized as the end of a long course of development. But it was at the same time the beginning of a new and higher phase of life, the indispensable first step toward political civilization. Growing up, like all social forms, in the closest dependence on economic conditions, it makes

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its appearance with as great regularity in the pastoral stage as the village community in the agricultural; which is no doubt one reason why no nation has ever attained a high degree of civilization without a pastoral apprenticeship. Its existence among the original Aryan stock, thus suggested by analogy, is directly established by the evidence of language and of institutions. The *patria potestas* of the Romans and other branches of the race is unaccountable except as a part of their common heritage.[1]

In the patriarchal family, the social protoplasm had developed a special organ for social control: but only one such organ. What distinguished this social organization from all previous as well as all subsequent forms was the extreme concentration of authority. Private and public functions were not as yet distinguished: still less the different kinds of public functions. The head of the family was at once father, priest, judge, general, and king. In theory, at least, no division whatever of power existed. To this vanishing point we can trace back the division of power; and from this point we must follow its development.

But there is reason to think that this simple undivided authority, if it ever existed in fact to the extent postulated by the theory, was not of long duration. *A priori*, it is difficult to conceive that the heads of the collateral lines could have obeyed the eldest male of the oldest line, who would often be their junior, so implicitly as the sons had formerly obeyed their common father. In fact, we know that often they did not. This very difficulty caused the Scotch and Irish clans to pass over a youthful heir in favor of the oldest agnate of the preceding generation.[2] But this could not be done without the consent of the clan, which was equivalent to an election; and an elected chief, even though strengthened by the necessities of a predatory life and incessant warfare, could not rule over those who were his equals, or even superiors by birth, as the original patriarch had ruled over his own children.

Again, according to the Bible, the patriarchal authority was maintained in its purity from Abraham to Jacob only through the separation of the sons in each generation; and Jacob left no

[1] Maine, Ancient Law, pp. 123–126; Plato, Laws, III, 680 E.
[2] Maine, pp. 240–241.

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successor to his authority. The descendants of his sons held together, but only in a loose confederacy; and within each tribe the real authority speedily passed from the chief of the tribe to the council of elders, and was only recovered for a brief period during the exile. Essentially the same condition of affairs exists among the best living representatives of the ancient Hebrews — the Bedouin Arabs. These examples suffice, or at least tend, to show that in the absence of some disturbing influence, such as that exercised by extensive conquests, the patriarchal principle after a few generations weakens rather than strengthens the central authority. There is not merely one *imperium in imperio*, but as many *imperia* as there are families.[1] This explanation, if correct, throws some light on one of the obscurest points in the history of institutions, the origin of the village community. Those who dispute the historic character of the polity described by Tacitus and explained by von Maurer, Waitz, and their successors, do so mainly on the ground that the appearance of a régime so largely republican between patriarchal despotism on the one side and feudal despotism on the other, is too anomalous to deserve credence. But if we keep steadily in mind that the patriarchal principle, as such, tends rather to the continued splitting up of society into small independent groups than to the formation of a centralized state, as is usually assumed, the difficulty at once vanishes. It is natural, and in the absence of counteracting influences inevitable, that as soon as the patriarchal clan becomes agricultural the chieftainship dwindles down to an honorary pre-eminence and the village community assumes a distinctly republican cast. The heads of families have severally the full *patria potestas* over their households, and for that very reason can meet in the village council only as a body of equals. On the other hand, a confederation of clans naturally, and one is tempted to say necessarily, assumes an aristocratic cast. For the conduct of affairs falls into the hands of the general council, composed of the chiefs of the several clans, meeting under the presidency of the noblest of the council, the *primus inter pares*, later called βασιλεύς, or Rex.[2]

[1] Maine, p. 126; Fustel de Coulanges, The Ancient City, II, viii, 2.

[2] Spencer, Prin. of Sociology, II, § 485; Fustel de Coulanges, The Ancient City, IV, iii, 1.

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It is impossible to say just how far this process had gone among the Aryans before their separation; but the many and striking similarities, or rather identities, in the early institutions of all Aryan nations leave no doubt that kingship, council and assembly were already somewhat developed.[1] With this differentiation, the first and most important step in the division of power was taken, and that form of government was established which, after undergoing a strange and eventful development, or rather perversion, on the soil of Hellas and Italy, appeared again with the invading Germans, and has become the bulwark at once of liberty and order for the civilized world.

Another specialization of functions, without which the first would have been impossible, may confidently be attributed to the common Aryan period; the separation of the secular and spiritual powers.

Early society is always exposed to a two-fold danger in respect to the exercise of spiritual functions; and most nations have been impaled on one or the other horn of the dilemma. On the one hand, if the political chief retains the spiritual power intact, if — to use terms strictly applicable only to later times — he wields both the temporal and spiritual swords, no limitation upon his power is possible; the foundation of an absolute despotism is assured from the beginning. Such have been all great despotisms in both hemispheres.[2] In fact, there is no other secure foundation for a despotism. Alexander the Great and the Roman Emperors were not so mad as is usually supposed when they demanded divine honors. Nor is it an accident that the only civilized state to-day whose constitutional law is summed up in the dictum *quod principi placuit legis habet vigorem*, is likewise the only state whose ruler holds sway equally over the bodies and the souls of his subjects. On the other hand, if the exercise of spiritual functions becomes the monopoly of a priestly caste, the establishment of a theocracy is practically unavoidable. The reason is obvious. Among all primitive peo-

[1] Iliad, II; Tac., Ger., XI; Meyer Gesch. d. Alterthums, I, §§ 425, 438, 506; Arnold, Deutsche Urzeit (3 Aufl.), pp. 345–347. Freeman, Comparative Politics (1873), pp. 64–66, *et passim*.

[2] Spencer, II, §§ 602–603, 479; May, Democracy in Europe, I, pp. xxiv-xxv.

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ples — the Aryans were no exception — law counts as a gift of the gods; consequently those who stand nearest to the gods, *i.e.*, the priestly caste, if such there be, have the greatest influence in shaping the law, and never fail to warp it to their own advantage. A contest for power ensues. The mediæval drama of Emperor and Pope has been acted in one form or another wherever a priestly caste has existed. The Hindu epics no less than the Bible are full of it. The immediate bone of contention in many cases, the key to the situation in all, has been the judicial power. It was not in the Middle Ages alone that the right to sit in judgment finally brought with it the right to exercise all other powers of government. In Egypt, for example, where the priests formed the supreme appellate court for the several counties (*νομοί*), and probably the county courts also, they ended by disposing of the king altogether, the high priest assuming the crown.[1] And in Æthiopia the oracle chose the king, who, in the event of his not pleasing the priests, received orders from the same source to kill himself.[2] As Meyer pertinently remarks: "Bei diesen Zuständen begreift es sich vollkommen, dass die ægyptischen Priester den Griechen Æthiopien als das gelobte Land schilderten." In addition to the defects of despotism in general, every theocracy, every priestly government under whatever name, has vices peculiarly its own. Not the least of these is the fact that law, morality and religion necessarily remain an undistinguished mass. Every custom and every prescription, great and small, is alike enforced by penalties both temporal and spiritual. Change, progress, are inconceivable. Law is petrified, and society becomes, as it were, mummified while still in its infancy.[3] It can hardly be a coincidence that the two branches of the Aryan race which early developed a priestly caste, namely the Hindus and the Celts, are the only two which have throughout their history displayed a marked incapacity for the maintenance of political independence; nor can we go far astray in attributing the famous unchangeableness of the laws of the Medes and Persians to the influence of the Magian priesthood.

It would thus seem that the spiritual power, wherever placed,

[1] Ælian, Hist. Var. XIV, 34; Meyer, §§ 118, 269.
[2] Diod. III, 5; Meyer, I, § 350. [3] Maine, pp. 23, 77.

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was certain to bring disaster and despotism upon society. But the Aryans and part of their descendants successfully held a middle course. They had priests, but no exclusive priestly caste, and the performance of religious rites was free to heads of families, of *gentes*, and of tribes; in many cases it was even obligatory upon them. By this distribution of the spiritual power, it was rendered comparatively harmless. The priests were not strong enough to enter upon a contest for the supreme power, yet their influence limited and checked the growth of secular despotism,[1] inculcating, as religion necessarily must, whenever the two powers are not united, that God should be obeyed rather than the human ruler. Just as during the Middle Ages, so now in the dawn of history, this division of secular and spiritual power favored the development of the human intellect and the formation of a limited government.

The Homeric king is essentially a constitutional king. Though reputed to be of divine descent, his power is narrowly limited by custom, and by the influence of the council composed of the heads of the confederate clans, who bear as well as he the title *Basileus*.[2] He is the commander in war. He represents the state in its dealings with foreign states and with the gods. He presides in the *Boulê* and in the *Agora*. But he does not enter upon any important undertaking without first assuring himself of the support of his chiefs and people. Nor does he make laws, levy taxes, or even administer justice on his own authority. In the trial scene represented on the shield of Achilles, it is the council who form the jury, while the people standing around express their preferences by shouts; the verdict, even if finally pronounced by the king, is thus evidently not found by him. Laws, moreover, are not made by any one. The legislative power, which Montesquieu attributes to the assembly, does not exist at this stage of civilization.[3] Government is a mere matter of administration. In place of laws made by man there are customs, which since they arise and change slowly and imperceptibly

[1] Sophocles, Antigone; Curtius, Griech. Geschichte (3 Aufl.), I, 129.

[2] Iliad, XVI, 542; Busolt, Griech. Staats- und Rechtsalt., §§ 29–31, 34.

[3] Montesquieu, Esprit des Lois, XI, 11; Maine, p. 8; Spencer, Prin. of Soc., §§ 466–468, 531.

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from generation to generation, seem mysterious in origin and are hence attributed to the gods. As the conditions of life change and new cases arise, they are settled by *themistes* — decisions which are regarded as divinely inspired, and which, through the recurrence of the same or similar circumstances, become the foundation of new customary laws. In these *themistes* we behold the first form of legislation, not yet consciously recognized as of human origin.[1] Here, as in all early civilizations, the first, and during long ages the only, legislatures are the courts of justice. It is not until the era of codes that human enactments are conceived as capable of giving rise to law.

It thus appears that in the heroic Greek polity, the legislative power was lacking; and that the judicial and executive powers, so far from belonging to the king alone, as Montesquieu asserts, were for the most part exercised in common by king, council, and assembly. This form of division of power is common in primitive societies, at least among Aryans, and constitutes the necessary prerequisite to any further specialization of functions. For the division of power could not possibly occur to any one as a theory until it already existed as a fact; and it came into existence as a fact only through the coexistence of social and political forces severally willing and able to vindicate for themselves a share in the government.

With the disappearance of kingship, the balance of power in the system was broken. The importance of this revolution lay not in the change of name, but in the destruction of the office. Henceforth there was not, and could not be, an independent executive or administrative organ in the government. In consequence, power was centralized. The oligarchies which succeeded the heroic monarchies usually parcelled out the executive and judicial powers among a number of magistrates elected by, and responsible to, the assembly of *active* citizens, *i.e.*, usually the *Boulé*, which thus became the only independent power in the government. The democracies still further multiplied the number and reduced the power of the magistrates,[2] thus making them still more completely the servants of the sovereign assembly, bound to obey its every whim and bend to its every gust of pas-

[1] Busolt, § 3. [2] Busolt, §§ 33, 49; Roscher, Politik, § 76.

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sion. And when finally the dikasteries, that is, the assembly sitting in sections, came to exercise practically the entire judicial power, being judges at once of the law and the facts, a degree of centralization was reached beyond which it was impossible to go. In Sparta, the same result was later attained through the board of Ephors, who concentrated in their hands the whole power of the state, the so-called kings retaining no more real authority, and the senate and assembly but little more, than the Merowingian Fainéants enjoyed.[1] The powers exercised by the Athenian Assembly and the Spartan Ephors needed but to come into the hands of one man and behold a tyrant, master of the life and fortune of every citizen. The tyrant could be killed, but the tyranny remained. Whatever its form, the government was equally and necessarily a despotism: for its power over the individual was legally and morally unlimited, and this enormous power was exercised by one man or one body of men.[2] And when religion had lost its hold, when law no longer counted as a gift of the gods, but as an arbitrary command of a chance majority, when men came to contend not for principle but for plunder, and in this contest employed the power of the state as their chief and most effective weapon, then the full consequences of the omnipotence and centralization of government were brought to view; and it is doubtful if history contains any page more sickening than that recording the events in Greece between the beginning of the Peloponnesian war and the sack of Corinth.[3] The whole violence of social and political warfare was concentrated into one effort, to retain or gain possession of the government; and the constitution, becoming the prize of party victory, was changed with every turn of the wheel of fortune. And so it came about that none of the simple or unmixed, *i.e.*, the centralized forms of government possessed the first requisites of stability; each quickly degenerated and gave place to another, which in turn underwent the same fate, and so on around the fateful circle which Aristotle and Polybius so vividly described. Nor is the reason far to seek. The simple or centralized governments,

[1] Busolt, §§ 94–95.

[2] Ferron, De la Division du Pouvoir Législatif (1885), pp. 12–13; Busolt, § 47.

[3] Beloch, Die attische Politik seit Perikles (1884); Roscher, § 123.

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whether the ruler be one, or a few, or many, are all near of kin and readily convertible into each other — a fact proved in modern times by the example of France; since such governments differ from each other only in one point of minor importance, namely, the number of persons who constitute the tyrant. For this reason they all deserve the name which Aristotle reserved for the second stage of each; they are *parekbaseis* — abnormal, one-sided forms, produced by the growth of one part of the constitution at the expense of the others;[1] at the expense, likewise, of the soundness and stability of the whole organization.

This fact early attracted attention. The Greeks had recognized, long before the loss of their independence, that from a political point of view, they had failed ignominiously; and they attributed their failure, in part at least, to the concentration — that is, the lack of division — of power. In support of this proposition, two separate and significant proofs may be adduced.

The first is, the attempts which were made at Athens to limit the power of the Assembly: to establish some body which should have the right and duty to confine demagogues and demos within the bounds prescribed by law.

In the Solonian constitution,[2] the two senates were intended to serve as anchors for the ship of state. The Four Hundred had the legislative initiative. The Areopagus was the supreme interpreter and guardian of the laws, with power to set aside resolutions of the Four Hundred and the Assembly, thus occupying a place strikingly like that of the American Supreme Court. The value of these safeguards was tested and approved in the stormy years extending from the expulsion of the Pisistratidæ to the end of the Persian wars. To them was due in no small measure that union of prudence and energy which enabled Athens to overcome seemingly insuperable odds. In consequence, the Areopagus never stood higher in public confidence and respect than during the two decades following the retreat of Xerxes.

When Themistocles and Ephialtes had deprived the Areopagus of its supervisory power — an action dictated by personal motives

[1] Lang, Essays on the Politics of Aristotle, pp. 141–142; Spencer, Prin. of Soc., § 465.

[2] Plutarch, Solon, 19; Aristotle. Athen. Pol., 8; Isokr., Areop., 37.

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and carried out in a truly Greek manner, if Aristotle is to be believed[1] — the *Graphé Paranomôn* was devised as a substitute. This was an indictment which could be moved by any one against the proposer of any decree or law, either on the spot, or at any time within a year. It caused the decree or law in question to be suspended until a dikastery passed judgment upon it; and if the indictment was sustained, the decree or law was *ipso facto* annulled. This process still subjected the Assembly to the decision of a court. But unlike the Areopagus, this court was merely a section of the Assembly itself, and could not be expected to show either more wisdom or more intelligence than the larger body; hence cases were argued on every other ground rather than that of constitutionality,[2] and faction, extortion, and bribery played the same rôle in this court as in all others. Doubtless the *Graphé Paranomôn* was better than nothing, but its inadequacy was shown by the disorganization which followed the weakening of the Areopagus.[3] Though checked by Pericles, the disease set in worse than ever after his death, deriving additional force from the measures by which he had purchased the favor of the rabble. The Assembly assumed the power of initiating measures without the authority of the *Boulé*, and without the need of confirmation. Decrees (*ψηφίσματα*) overrode laws (*νόμοι*). The generals who had won the victory of Arginusæ but had failed to pick up the dead were put to death without trial, in defiance of all law; and the words which Xenophon reports on this occasion[4] — "The crowd shouted that it would be outrageous for any one to hinder the people from doing whatsoever they liked" — express only too well the spirit of mob rule in all ages. That the people shortly after repented and ordered the accuser of the generals to be prosecuted, only completes the chain of evidence against a polity which provided no authority to resist the "*jussa civium prava jubentium*" — that is to say, against a government in which power was not divided.

That the Athenians themselves saw the true cause of their

[1] Aristot., Athen. Pol., 25.
[2] Grote. Pt., II, ch. 46.
[3] Aristot., Athen. Pol., 26.
[4] *τὸ δὲ πλήθυς ἑβδόα δεινὸν εἶναι, εἰ μή τις ἐάσει τὸν δῆμον πράττειν ὃ ἂν βούληται.* — Hell. I, 7, 12.

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ruin in the unlimited power of the Assembly is plain enough from the renewed attempts which were made at the close of the Peloponnesian War to limit its freedom of action. The restored democracy, having learned by sorrowful experience what it costs to indulge every whim and being presumably chastened by suffering, made a number of good resolutions. In the first place, it was resolved that laws should not be set aside by a mere decree.[1] Truly, an excellent resolve; but who was to guarantee its observance? Limitations imposed by any political body upon itself are much like written constitutions in Turkey and promises in Russia — not to be taken seriously. Whatever laws any single body can make, it can also break; and occasions for so doing will never be lacking. Secondly and chiefly, it was resolved that in future laws should be made and altered only by a peculiar and complicated process which may be compared to the formalities required for amending modern constitutions.[2] But the delegates who had the final responsibility in this process (*νομοθέται*), like the judges who decided the *Graphé Paranomôn*, were chosen from the demos by lot, and hence were just as little able to rise above the ruling passions of the hour or to exercise an independent authority. Moreover, the absence of any sharp distinction between laws (*νόμοι*) and decrees (*ψηφίσματα*), together with the lack of any body authorized to draw the line in individual cases, defeated the main purpose of the whole institution. The Assembly could still pass anything it chose in the form of a decree; and there was the end of its praiseworthy attempt to restrict its own action. The attempt to take power from the demos without giving it to any one else was foredoomed to failure. Only power can limit power.

The second proof that the Greeks felt the need of a division of power is found in the theory of the mixed state, which has been well named the constitutional theory of antiquity. Several different influences co-operated to call it into existence. First may be mentioned the Homeric poems, which never suffered the Greeks to forget that their earliest government had united kingly, aristocratic, and democratic elements. The impression thus produced was strengthened by the contrast between the steadiness

[1] Busolt, § 150. [2] Roscher, § 78; Busolt, § 203.

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of those states, notably Sparta, which had most faithfully adhered to the ancient constitution, and the continual revolutions which desolated the others.[1] And finally must be added a third influence, subtle and scarcely definable, but none the less powerful; that of legal conceptions. As we have seen, the early Greeks conceived law as of divine origin, or even as a part of that world-order to which the gods themselves were subject.[2] Human will, whether of one or many, was as impotent to create law as to change the path of the stars. The government was thus subject to a law higher than itself, which it was powerless to alter. It was therefore a limited government. But this limitation disappeared with the traditional view of law, of which it was a result, and the frightful excesses which followed, when there remained no criterion of legality or even of moral right and wrong beyond the temporary whim of a tyrant or of a chance majority in the Assembly, led all the nobler spirits to seek some new guarantee against the violence of despots and factions. This guarantee they found in the mixed state. The first recorded utterance suggestive of this famous theory is found in the dictum of Solon reported by Plutarch: —[3] "It seems to me that a ruler, whether king or tyrant, is held in more esteem by the citizens when he combines democracy with monarchy." These words express the same ideal which he had tried to embody in the constitution of Athens. Stobæus[4] attributes fragments to Hippodamus of Miletus, a contemporary of Pericles, and Archytas of Tarentum, a friend of Plato, which would, if genuine, make them the authors of the theory in its most developed form. But the authenticity of these fragments is more than doubtful.[5] In Plato, however, we find the idea at which Solon had barely hinted worked out

1 Plato, Laws, III, 690–693.

2 Busolt, § 3, and notes. Hildenbrand, Gesch. u. System d. Rechts- u. Staatsphil. (1860), I, p. 29.

3 Ἐμοὶ μὲν οὖν, ἔφη, δοκεῖ μάλιστ' ἔνδοξος γενέσθαι καὶ βασιλεὺς καὶ τύραννος εἰ δημοκρατίαν ἐκ μοναρχίας κατασκευάσειε τοῖς πολίταις. — Conviv. septem Sapient., cap. VII. *cf.* Zell, Dissertatio de Mixto Rerum Publicarum Genere (Heidelb. 1851).

4 Quoted by Fuhr, Dicæarchi Messenii quæ supersunt (1841), pp. 37–38. *Cf.* Zell, who gives synopsis of the fragments and is inclined to consider them genuine. Stobæus, ed. Gaisford, T. II, pp. 112, 146–147.

5 Hildenbrand, p. 60. Aristot., Pol. II, 8, 1267, b. 21 ff.

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with a clearness and fulness that leave little to be desired. The successive steps by which he reached this result cannot be better stated than in the words of Hildenbrand:[1] —

As to the forms of state he [Plato] had in the *Statesman* treated the sovereignty of the one, of the few, and of the many (*Volk*) as mutually exclusive kinds of constitution, and had held that each was good or bad according as it was or was not operated subject to the restraints of law. In the *Republic* he improved on this doctrine by setting forth the development of the three absolute forms out of one another, and showing that they must be conceived as always in process of transition from one stage to the next. Law in itself might limit the absoluteness of any form, but it could never overcome the tendency, which was rooted in the nature of the constitution, to pass over into another form. As a means of counteracting this tendency Plato now hit upon the idea of combining in a single system the contrasted elements of the chief forms of constitution. Thus he arrived at the fundamental feature in the concept of the mixed form of state.

Applying this conception to history, Plato finds that Sparta was steady and flourishing, while Argos and Messene, her sister states, had gone to ruin, chiefly because Sparta had and the other two had not adopted a mixed form of government.[2] To establish the same conclusion negatively he takes Athens and Persia as representatives, the one of pure democracy, the other of pure monarchy, which he considers the two fundamental forms, and shows how the misfortunes of both originated in the vices of their constitutions. Liberty and order, he concludes, are both necessary in a state; and only under a mixed government can both be maintained.

A further stage in the development of the doctrine is marked by Aristotle, notwithstanding the fact that he is noncommittal on many points and has nowhere clearly or connectedly stated his views. He objects to Plato's conception of a mixture of monarchy and democracy, giving however no reason but a verbal quibble. He likewise objects, and with better reason, that the kingly power is, after all, left out of Plato's imaginary state.[3] But he mentions with apparent approval the current opinion that Solon had intended the constitution of Athens to be mixed.[4]

[1] Hildenbrand, p. 185.
[2] Plato, Laws, III, 690–693.
[3] Pol., II, 6.
[4] Pol., II, 12.

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Still more clearly does he approve the mixture of powers in the Carthaginian and Spartan constitutions, at the same time pointing out how the growth of one part at the expense of the rest was ruining the whole government.[1] And his own "best state" is repeatedly defined as a mean between the various other forms, and again as a mixture of democracy and aristocracy.[2] That he omits the royal power is due to his positive and practical genius, which saw the impossibility of establishing a legitimate kingship in the Greek city-states. But his theoretical preference for the union of the three forms appears plainly in several passages.[3] This same idea was afterwards worked out in detail by his pupil Dikaiarchos in the *Tripoliticus*, so that he passed among the later compilers for its principal expounder,[4] the mixed state being called from his name, γένος Δικαιαρχικόν.

The last element in the theory of division of power, though not recognized as such in ancient times, was likewise detected by Aristotle; namely, the distinction of the three essential kinds of governmental action.

The passage in which this capital contribution to political science is set forth runs as follows:

> There are three elements in every government, which the good law-giver must consider separately as to their utility. If these are sound, the government will be sound; and governments differ from each other in so far as any one of these elements is different. One of these three is that which deliberates concerning the common welfare; the second has to do with administration; and the third, with judicial action.[5]

It is obvious at a glance that we have here the familiar division into legislative, executive, and judiciary. This distinction once

[1] Pol., II, 6; II, 9; II, 11. [2] Pol., IV (VI), chs. 7, 8, 9.

[3] Politics, II, 6; Ἔνιοι μὲν οὖν λέγουσιν ὡς δεῖ τὴν ἀρίστην πολιτείαν ἐξ ἁπασῶν εἶναι τῶν πολιτειῶν μεμιγμένη . . . ἡ γὰρ ἐκ πλειόνων συγκειμένη πολιτεία βελτίων. *cf.* also Pol. IV (VI), chs. 7–8–9.

[4] Osann, Beiträge zur Griech. u. Rom. Litteraturgesch. (1839), II, pp. 1–34. Fuhr, Dikæarchi Messenii quæ supersunt (1841), cap. v.

[5] Ἔστι δὴ τρία μόρια τῶν πολιτειῶν πασῶν, περὶ ὧν δεῖ θεωρεῖν τὸν σπουδαῖον νομοθέτην ἑκάστη τὸ συμφέρον· ὧν ἐχόντων καλῶς ἀνάγκη τὴν πολιτείαν ἐχειν καλῶς καὶ τὰς πολιτείας ἀλλήλων διαφέρειν ἐν τῷ διαφέρειν ἕκαστον τούτων. Ἔστι δὲ τῶν τριῶν τούτων ἓν μὲν τί τὸ βουλευόμενον περὶ τῶν κοινῶν δεύτερον δὲ τὸ περὶ τὰς ἀρχάς . . . τρίτον δὲ τί τὸ δικάζον. — Pol., VI (IV), 14.

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made, the way was open for further advance. Aristotle had distinguished the three parts of a mixed government; he had also distinguished the three functions of government. Why did he not combine the two ideas and assign each function to a separate organ? Had he done so, he would have anticipated Locke and Montesquieu. But this combination, obvious as it seems to-day, was not then possible. It presupposes what it required two thousand stormy and eventful years to create — the national representative system. For the division of power in this its modern form rests upon one fact alone — that the sovereign does not act directly except when ordaining and amending the constitution; whence it follows that the several organs of government created by the constitution stand upon an equal footing as regards each other, each being supreme in its own sphere. But so long as the sovereign, whether the one, or the few, or the many — especially if the many — is in his own person a part of the government, the other parts must necessarily be subordinate appendages. Such a sovereign was the Greek Assembly; and for this reason the modern division of power was in ancient times, not only impossible, but even inconceivable.

Recapitulating briefly, the following points seem clear:

The Greeks had at first a government composed of king, council and assembly, co-operating in the exercise of administrative and judicial powers. The legislative power was not consciously recognized, its first beginnings appearing in the inspired *themistes*. This government was therefore limited and power was divided.

The disappearance of kingship destroyed the balance and concentrated power, first in the hands of the *Boulê*, then usually in those of a tyrant, and then in the Assembly, as at Athens, or in a committee of the Assembly, as at Sparta. Such a government, at once unlimited and centralized, necessarily remained a despotism, through all changes of name and form. When society was mastered by material interests and the war of classes broke forth, the government became the chief agent of pillage and massacre, and being merely the rule of a party, it changed form with every alternation of party victory. Monarchy, aristocracy, and de-

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mocracy followed each other in an apparently fixed order, as described in the ancient theory of revolutions, but all were alike abnormal and one-sided, hence all alike unstable.

The Greeks themselves recognized the cause of this instability and of their own political failure, in the fact that their governments were simple — that power was not divided. Proofs of this recognition are: (1) the attempts made at Athens to limit the Ekklesia through the Areopagus, the *Graphê Paranomôn*, and the *Nomothesia;* (2) the theory of mixed government, developed by Solon, Plato, Aristotle, and Dikaiarchos, with the avowed purpose of remedying the vices of simple governments, especially those of violence and instability.

Finally, these attempts and theories alike came to nothing, for the same reason that prevented Aristotle, when he had distinguished the three separate functions of government, from assigning them to separate organs; *viz.*, because so long as the sovereign was a part of the government, that is, so long as government was direct, a mixed or balanced government could not be maintained.

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# THE GROWTH AND FUTURE OF STATE BOARDS AND COMMISSIONS.

SINCE the Civil War the economic and social development of this country has been marvelous. The population has more than doubled; the facilities for transportation and communication have not only increased immensely, but have also greatly improved and cheapened. The output of our mills and factories has multiplied many fold; a new industrial revolution has taken place, and America has become an important if not the leading factor in world industrial competition. Along with these transformations we must consider also the new fields for enterprise that have opened, the advance of science, the greater complexity of processes in manufacture, the physical forces coming more and more into use, and the great addition to our industrial population, and, consequently, to our producing capacity, that has come from foreign lands.

Accompanying changes have taken place in the management of wealth and in the relations of persons engaged in industrial pursuits. Individual initiative, enterprise, and responsibility have been succeeded, to a great extent, by corporate activity, with both good and evil results: good, in that many small accumulations of wealth are combined and utilized by the most energetic and skillful; evil, in that there is little or no personal responsibility in the use of wealth, the corporation becomes rightly characterized as "soulless," and practical monopolies, with all their disturbing influences, are likely to arise.

With such changes in progress in the social and economic world, we should expect corresponding modifications in government. The political organism, under such circumstances, must develop or degenerate. Stand still it cannot.

The English and American systems of government are noted for the readiness with which they respond to the growing needs of the people. So far as our national Constitution is concerned, it is true, indeed, that the process of formal amendment is not only



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slow, but very difficult, — almost impossible. Fortunately, however, the Constitution of the United States is but an outline of government, and one so broad and liberal that much can be effected in the way of improvement and changes of details without amending the instrument itself. Witness the enormous power exercised by Congress under the simple authority to establish post-offices and post roads and to regulate commerce. As to our State governments, adaptation to new conditions may be brought about with even greater readiness. Not only is the process of constitutional amendment easier, but the residuary power of the States renders possible prompt and efficient action by mere legislation.

It is within the field of State activity that economic and social changes are most likely to be reflected. The State government touches the individual far more intimately than the National government and at more points. Industrial, commercial, domestic, educational, and religious interests, to say nothing of the general duty of police, are intrusted to its care. During the last thirty years, many experiments in government have been made by our State authorities. Some of them have proved failures, but not all. Gradually there has been developed and is still developing, in the statute books and in the experience of State officers, a governmental structure of great interest and value.

In America, for a hundred years before the Civil War, the governmental questions uppermost in men's minds were chiefly, though not exclusively, constitutional: since the war, they have been mainly administrative.[1] That is to say, prior to the Civil War, questions of independence, of the interrelationship of governmental departments, of State rights, of suffrage, occupied most attention; while since the reconstruction period, interest has been centered on the relations of the State to great corporations, on capital and labor in their industrial struggles, on State aid in the development of the country's resources, on the methods and measure of taxation, on the protection of the health and morals of the people, and on the furthering of educational, industrial, and philanthropic enterprises. The problems here have been

[1] Goodnow, Comparative Administrative Law, vol. I, p. iv.

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largely those of administration, — of efficient exercise of power by governmental agencies.

This increased administrative activity has sometimes found expression in laws general in character, and requiring no special machinery for their execution; but more frequently a special need — industrial, scientific, educational, philanthropic — has called into existence a special organ of government to supervise, aid, or manage the affair. This is the source of those boards and commissions which have in late years become prominent in all the States, but more particularly in those having the most complex and highly developed industrial organization. These bodies are the latest product of governmental evolution. They have developed since the Civil War, many of them during the last two decades; and a study of their form and action will reveal the tendencies of governmental progress, and the advance already made in certain directions toward paternalism and State socialism.

The writer has made a prolonged effort to collect information concerning the boards and commissions of the several States. The data were found to be widely scattered and difficult to secure, but enough has been obtained to warrant some rather interesting conclusions.

## *I. Origin and Distribution of the Boards and Commissions.*

Several causes have contributed to the establishment of these bodies. One, undoubtedly, is the growing consciousness of the legislator that he must have more light before filling the statute books with laws. Especially does he feel this when dealing with the great and complicated interests that have arisen from the expansion of our social and economic life. A number of the commissions may be said to have had their origin and prototype in standing committees of the legislature. Of course it has long been the custom of legislative bodies to refer matters requiring investigation to special committees, composed of their own members, in order that data may be collected, evidence heard, and recommendations proposed. But the shortness of legislative sessions in most of the States, and the lack of expert knowledge and of necessary leisure on the part of the legislators themselves,

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have sometimes led them to establish a committee or commission composed of outsiders possessing special knowledge of the subject, and able to give their whole attention to the matter in hand.

This explanation of their origin would hardly hold good for many of the boards and commissions; for example, those designated "executive." In this class the original purpose was not so much to collect information as to get something done; and the same is true of "supervisory" and "examining" commissions. The impulse to the formation of such commissions has frequently come from outside the legislature, and the whole plan and organization have been suggested independently of that body. Public opinion has first been aroused by earnest advocates of the proposed extension of governmental functions, and this has finally had its influence upon those in authority. A bill has been introduced and forced through, and the establishment of the commission has followed. The Massachusetts Board of Health, and later the Highway Commission, are cases in point, and good examples of the deliberate manufacture of public sentiment.

Another cause of the establishment of boards and commissions is found in the growing strength and solidarity of professional and industrial organizations. Realizing that the good name of their profession was suffering, and the practice of their members at the same time diminished, by the quackery or unskilled work of persons pretending to have the necessary qualifications, medical, dental, pharmaceutical, and other associations have used their not inconsiderable influence to secure boards of registration, and to obtain laws forbidding practice by unregistered persons. In the same way industrial organizations are realizing more and more what a useful ally the government can be in limiting numbers in each line of work, and a movement to invoke this alliance is growing in strength. The Pennsylvania law requiring miners to obtain certificates in order to work in the coal mines of that State, is a case in point.

As to the distribution of the commission system through the Union, Massachusetts, the pioneer in adopting the system, distances all the other States in the number of such bodies and in the variety of interests placed under their care. This develop-

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ment, however, has not continued without protest. Illinois stands next. In general it may be said that the States having highly developed manufacturing and commercial interests lead in the number of such bodies. The exceptions are Kansas and Colorado, which possess a surprising number for States having agriculture or mining as their leading industry. The New England States, with the exception of Maine and Vermont, have a pretty full development of the system, attributable to the influence of Massachusetts and the general similarity of economic and social conditions. The Southern States, as a rule, have but few commissions.

### *II. Duties of the Boards and Commissions.*

So various are the duties assigned to these bodies, that their classification is made very difficult. A careful examination, however, reveals that they may be grouped under the following heads: Industrial, Scientific, Supervisory, Examining, Educational, Executive, Corrective and Philanthropic.

1. *Industrial.* — Examples of such bodies are to be found in boards of agriculture, dairy and food, horticulture, and inspectors of mines, oil, fish, livestock, grain, steam boilers, steamboats, workshops and factories.

A majority of the States have boards of agriculture; the first three boards and inspectors of mines and oil mentioned above are represented in perhaps one-fourth of the States; each of the remaining boards and inspectors in about one-tenth of the States. There are a number of other boards that are represented in only one or two States; for example, terrapin inspectors (South Carolina), beef and scythe stones (Rhode Island), silk commission (Kansas), tobacco inspectors (Maryland), bakery inspectors (Ohio).

In boards of this kind we see an effort of the States to further special industries, because of their present or prospective importance. That so large a number have established boards of agriculture and kindred bodies (horticulture, cattle, *etc.*), reveals the immense importance of the industry, and, perhaps, incidentally, of the farmers' vote; for it must be admitted that commissions are

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sometimes formed to indicate an interest in a particular class rather than to meet a real need or demand of the industry thus favored.

These boards of agriculture have endeavored to advance the industry by spreading information concerning the best methods of soil cultivation, and of stamping out diseases prevalent among the domestic animals, by making known the advantages their respective States possess for agricultural pursuits, by organizing and conducting farmers' institutes, to discuss matters of interest and exchange experience. These and other duties have, on the whole, been fairly well executed. On the other hand, the boards of agriculture have not been without faults. A tendency to move only over the surface of the questions presented for discussion — to be popular at the expense of a more thorough and adequate treatment of the problem discussed; a willingness to boom some new or promising field of agricultural work without due consideration of anything but immediate consequences and surface conditions; and a too ready yielding to the temptation to give advice as to the best methods, *etc.*, when no really scientific investigations have preceded, — these are the chief, though perhaps not the only, faults of these bodies.

Of a somewhat different character from the boards of agriculture are the commissions charged with the duty of looking after the quality of the staple articles of their respective States, and of seeing that various means of manufacture, of power, of transportation, *etc.*, are in proper condition. The purpose here is to protect the health of the consumer, the good name of the States' products, and, also, in some cases, the safety of the employees. The inspection of mines and manufactures, however, has not yet proceeded very far, but may be found in a few of the States.

The experiment of Ohio in providing a free employment bureau, a State labor exchange, has been followed only in New York.

2. *Scientific.* — Boards of health are found in most of the States; bureaus of labor statistics have been established in about one-half; boards of topographical or geological survey in about one-fourth of the States. Other boards and commissions of this general character (public records, forestry, weather service, drain-

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age), and such public officers as vaccine agent and State chemist, are found in but few States.

The desire for exact information, for the highest expert knowledge, grows apace, and has found expression in the creation of these bodies, charged primarily with the collection of scientific data; though some, like the boards of health, have executive duties to perform. It is a promising sign of the times that the number of such commissions is increasing. The great multiplication of boards of health also indicates a determination to use the approved results of scientific investigation in the most effective way for the prevention of epidemics and the general preservation of the health of the people. Of course, this is a species of paternalism, though surely of a very justifiable kind. The almost absolute power of these boards in condemning property, isolating individuals, and establishing quarantines, is worthy of more attention from students of government.

The large number of States that have established bureaus of labor statistics since Massachusetts set the example in 1869, indicates the need felt of securing adequate data before attempting to cure social ills. No doubt, much that has been secured by these bureaus is almost useless, owing to the failure to observe the strict requirements of scientific investigation. Politicians, unfortunately, have frequently secured appointments at the head or on the staff of the bureaus as rewards for political services; or, in order to secure the favor of labor organizations, untrained men have been put in such places, with the result that their work is discredited, and fails to inspire confidence in its accuracy or scope. Being ill trained or untrained in the difficult work of collecting, classifying, and generalizing the necessary information, the results prove inadequate, inaccurate, and misleading.

Still, much use has already been made by statesmen, students, and writers, of the matter presented in the reports, not only in this country but elsewhere. The example of the United States in collecting and publishing industrial information in a systematic fashion has been followed quite largely in other countries.

3. *Supervisory.* — The most conspicuous examples are boards of arbitration, railroad commissions, and commissioners of insurance, inland fisheries, and game. The last three are found in a

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large number of States, the first in at least eight. Several States are experimenting with boards of inspectors whose duties are to supervise corporations (Massachusetts), gas and gas meters, building and loan companies.

The commissioners grouped under this head are probably better known than any others. The railroad and insurance commissions have been the most prominent. The railroad commissions are of two varieties: one, of which Massachusetts furnishes the type, has power to direct attention to cases of neglect, ill treatment, overcharges, *etc.*, by the railroads, but no power to compel obedience; the other variety, represented by most Western commissions, possesses power to compel railroads to obey its orders, subject, of course, to the courts.

There is a difference of opinion as to the relative merits of the two kinds, though the tendency seems to be toward the latter. The commission that has no direct power of compulsion is expected to act on the roads through public opinion, and, ultimately, through the legislature, should the roads prove obstinate. The commissions possessing direct power have found themselves much circumscribed by the federal courts, that insist on the right to review their decisions and reverse them when they appear to be cutting so deeply into the revenue of the roads as to make it impossible to pay fixed charges and some profits, or when the procedure of the commission seems inconsistent with due process of law. Kansas has recently attempted to get around both of these points by establishing a special "court of visitation," founded for the purpose of controlling rates. It seems unlikely that this new organization can stand the tests of the federal courts.

Insurance commissioners are endowed with great power in some States. For example, in Kansas, the insurance commissioner may absolutely exclude the most powerful companies from writing policies within the State. Such dictatorial power is certainly liable to abuse, and examples are not wanting of actions by a former insurance commissioner of Kansas that have the appearance of a "holding up" of the companies — of compelling them to pay for the privilege of operating in the State. It was commonly reported during his administration that emis-

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saries from the commissioner tried to extort what amounted to blackmail from a number of the largest companies.

The movement to arbitrate labor disputes between employer and employees has crystallized in eight permanent commissions in as many States. In a number of other States, the law provides a method of creating temporary commissions for the settlement of labor disputes when the occasions arise. They have had a moderate amount of success, but do not seem to have met the expectation even of their originators. In a recent case in Massachusetts, the striking laborers and the employers agreed to submit the matter in dispute to the State board of arbitration and conciliation, but on the award being made in favor of the employers, the laborers refused to accept it. Such failures to abide by the decision of the arbitrators strikes a deathblow at the whole system.

4. *Examining.* — Boards of registration in dentistry, medicine and pharmacy, are found in many of the States. In at least four there is a civil service board, while several have boards or commissions whose duties are to examine pilots, veterinarians, undertakers, architects (Illinois), horseshoers (Illinois, Minnesota), barbers (Minnesota), and plumbers (Minnesota).

A very interesting development is presented under this head. The movement is spreading rapidly to provide boards for the examination of certain important skilled professional men and artisans. Dentistry, medicine and pharmacy commissions are required by law to examine and register those persons who are to be permitted to practice their respective professions in the various States. Such a board is controlled by the profession concerned, and is moved, therefore, by a real desire to exclude unworthy members from the profession, and to preserve, so far as possible, its fair fame. The exclusions are made on the ground of unfitness alone, so that any attempt to limit the number practicing in the State can only be carried out by excluding the unworthy, and thus the standard will be raised. In all these professions, it is not a greater number of practitioners that the public interests demand, but higher skill; hence such a system of registration may be expected to result in more rigid requirements.

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Unfortunately, the States have not yet generally provided an examining board for their own employees. The desire for civil service reform has been gaining ground quite rapidly, however, and it is probable that the near future will see civil service commissions established in other States than the few that now possess them. Still, there is hardly a session of the legislature in any of the States where the commissions exist that does not witness efforts made to destroy the law.

Minnesota has gone surprisingly far in providing examining boards for occupations other than the professions: — bakers, plumbers, and horseshoers are registered in that State. In the New York legislature of 1900 an effort was made to establish a State board of examiners for the sanitary inspection of barber shops. The Brennan bill that provided this board, was killed after some debate by a vote of 72 to 42.

That this movement is one of great significance, and that it may, if carried so far as to interfere materially with the free choice of occupation, produce important economic results, will be apparent to anyone on reflection.[1]

5. *Educational.* — Boards of control of educational institutions and State boards of education are found in nearly all the States. Connecticut made a unique advance by establishing a board of sculpture, and Massachusetts has set an excellent example by providing for a public-library commission.

Notwithstanding vigorous efforts to divorce politics from the educational and philanthropic activities of the States, the temptation to use the positions in the different institutions and boards as "spoils of office" has usually been too great for governors to resist, and the results have frequently been deplorable. The recent experience of the Illinois State Board of Charities may be

[1] "If there is effective movement from group to group among laborers, value is determined in the end primarily by the sacrifice involved in labor, that is, by real cost of production; while relative wages depend on the intrinsic attractiveness of different sorts of work. If there is not effective movement from group to group, value and relative wages are both determined in the end by the final utility of the consumable commodities produced. In the recent discussions of the fundamental laws of value, the important bearing of the presence or absence of free choice of occupation by laborers has been strangely neglected." — Taussig, Wages and Capital, p. 108.

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cited as a case in point. Public opinion, however, is becoming more and more educated on this matter, and we may confidently look forward to a time in the near future when in most of the States politics will play no part in the administration of the State educational and charitable institutions.

6. *Executive.* — The desire on the part of many States to get something done to carry through some great enterprise, even though at times it involved the entry of the State on ground supposed to be the exclusive domain of individual enterprise and initiative, has led to the formation of boards and commissions charged with such duties as the following: Construction of highways, control of the public printing, selling of liquor (South Carolina), managing great sewerage and water systems, laying out extensive parks, constructing and repairing levees (Louisiana and Mississippi).

Massachusetts has led the way in this class of commissions. Her highway, subway, park, water, and sewerage commissions are all excellent examples of what the State may do under certain conditions. Municipalities, of course, have long been engaged in the construction of waterworks, sewerage systems, and parks, but there have been comparatively few examples of a State's undertaking such enterprises as these; hence, the special interest that attaches to their success or failure. The occasion for a number of these commissions in Massachusetts is peculiar to the conditions prevailing around Boston. A number of thriving and well-to-do communities have grown up within a small radius of Boston, but their governments are entirely independent, though they stand in very close commercial and physical relation to the Mother City. It became obvious that it would be to the advantage of all concerned that a general system of parks, water, sewerage, and transportation be devised; but as the towns were by no means ready to sink their individual existence in a Greater Boston, it seemed best to have the State come in and provide a commission that would unify action, and yet save the rights of each.

The commissions have thus far been remarkably successful in what they have undertaken. The highway commission has had an especially satisfactory career; and though it has spent a large

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sum, not a word of complaint as to misappropriation of funds has been heard, and no serious criticisms made on the work performed except as to general policy. It was urged by many that continuous good roads should be built instead of the detached sections planned by the Commission. So strong was the demand for a different policy that a change was made a few years ago in the *personnel* of the Commission. The character of the commission has been uniformly high. Most of its members have been experts of great reputation, and their general standing has been such as to command the highest respect.

Up to the present time, the work undertaken by the States through their executive boards has consisted chiefly of great engineering enterprises. The important exceptions are, the conduct of a public-printing establishment, the purchase of school-books, and the sale of liquors. It must be said that the conduct of all these enterprises by the State has been fairly satisfactory. That there has been any striking advantage to the public may well be doubted. Probably the activity of the States has hardly gone far enough in extent or time to warrant any sweeping judgment. That it has attempted these lines of work at all is a matter of deep interest, and may well cause us to ask in expectancy, What next?

7. *Corrective and Philanthropic.* — Under this caption may be grouped such bodies and officers as boards of police and of charity and correction, general superintendent of prisons (Massachusetts), State agent to prevent cruelty to animals (North Dakota). Nearly one-half of the States have State boards of charities. In all the States having institutions for the defective, dependent, and delinquent classes, there are boards of control. Leaving these out of account, the various bodies or officers under this head, with one exception (Massachusetts, "State Aid"), are the result of attempts to centralize administration in the State government, — to supervise and control local authorities. To a certain extent, therefore, they are in opposition to the policy of home rule.

Such work, however, was undertaken reluctantly by the State governments, and only when the abuses under the local governments were too great to be borne. The administration of public

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charitable institutions, like the almshouses and hospitals for the insane, or corrective institutions, like the jails and prisons, was admittedly bad almost everywhere. This was due sometimes to the poverty of the local communities, but usually to ignorance of actual conditions, and to lack of acquaintance with better methods, or to the short-sighted penuriousness of the people of the community.

The State boards of charities, in Indiana, Ohio, and New York, are doing an incalculable amount of good by inspection and the requirement of reports. We should be better pleased, no doubt, if each community needed no inspection and required no oversight — if the impulse to better things came from within rather than from without. It has been found in England, however, after long centuries of trial, and in this country after a considerable period of experience, that the local authorities cannot be relied upon to reform their methods of poor relief, or to stay reformed, if by chance they have a spasm of virtue and improve matters for a while.

Perhaps the explanation of the steady improvement under the State board system may be found partly in the fact that the whole of the State seldom degenerates at the same time; that if one part deteriorates, the other portions, acting through the central body, — the State board, — apply the spur or the whip. In part, the explanation may be that the publicity which the State board can give to the failures of the local authorities, keeps the latter ever on the anxious seat.

The control of the local police by the State is an experiment which has been thoroughly tried in Kansas, and partially tried in Massachusetts. In neither State is there a central board; but the members of the local boards are appointed by the governor, and may be removed by him. This is the reason for placing them among the State officers. It is quite doubtful if the laws are better executed by this arrangement. In actual practice, it is found that the governor, as a rule, appoints in each city the kind of a commission the majority of the citizens wish. If a commission is appointed, not backed by the mass of the people, arrests and convictions are very difficult to obtain. In Massachusetts, the interference of the State with the right of the locality to ap-

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point its own police, is confined to the cities of Boston, Taunton, and Fall River. Much complaint is made in Boston, by Democratic papers at least, that such an arrangement takes from the city the right to manage its own affairs. So long, however, as the city is Democratic and the State outside Republican, there need be little expectation of a change.

No one can glance over the foregoing activities of the commissions without remarking their varied and important character. They reflect the complexity of modern life, and suggest the imminence of a government paternalism more far-reaching than our country has known in the past.

It is clear that such delicate and difficult duties as those described can be rightly performed only by experts. Technical training and skill, not party service, must be the criterion for the *personnel* of the commissions. If party service determines, one of two things will happen: either the work will be badly done, and great interests will suffer, or else an expert will be employed to do the work that should be done by another, and the State must pay two salaries when one would suffice. The principle here involved has been particularly illustrated in the affairs of our cities. President Eliot remarks in his *American Contributions to Civilization*, that "the failure of the democratic form of government has occurred chiefly in those matters of municipal administration which present many novelties and belong to the domain of applied science; such as the levying of taxes, the management of water supplies and drainage systems, the paving, lighting, and cleaning of highways," *etc.* After calling attention to the high degree of scientific training which such matters require, he notes "the antiquated methods of municipal administration, and particularly the short and insecure tenures for the heads of departments," as being responsible for "the greater part of the municipal evils which are bringing discredit on free institutions."

Much that he says can be applied with equal force to the State governments. Massachusetts, it is true, is far in advance of most of the States in the care exercised in choosing officers. Here experts are usually preferred to politicians, and competent officials

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are retained for long periods.[1] Even Massachusetts, however, has something to learn along these lines.

Having considered the origin and duties of the boards and commissions, attention should now be turned to the relations of these new organs of government to other and older features of the general framework of the State. We should know how they are articulated with the executive, legislative, and judicial departments, as well as their relations with the local government.

### *III. Relation of the Boards and Commissions to the Governor and the Legislature.*

State commissions, whether composed of several members, usually three or more, as is generally the case, or of only a single commissioner, are constituted through appointment of the members by the governor, subject usually to confirmation by the Senate. Reports are made in some cases to the legislature, in others to the governor.

It frequently happens that the law organizing the commission is so expressed as to give the governor, after making the appointment of its members, no further control over the actions of that body. The power of removal either is denied him, or is hedged about in such a way as to make its exercise practically impossible except for the grossest malfeasance. Often the legislature has granted these commissions almost complete power in their sphere, and placed in their hands the uncontrolled expenditure of large sums of money. On their appointment by the governor they are launched in their orbit with practically no one to restrain or limit their action within the law. The governor's reputation may suffer by their action, yet, as he has practically no power of removal, he is helpless, except so far as he may direct public attention to the wrong-doing. In effect, the commission system

[1] The growing demand for technically and scientifically trained men for the government service is noted in a recent report of the Civil Service Examining Board for Boston and vicinity. The report states that efforts have been made to stimulate "interest in the government service and to create a more general demand for technical and scientific examinations; and to this end, announcements of examinations have been distributed in the Institute of Technology, Harvard University, and Tufts College. The effect has been apparent."

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establishes a fourth department of government directly responsible neither to the people, for the members are seldom elected; nor to the legislature, for it does not appoint or remove; nor to the governor, for though he appoints, it is seldom he has the power of removal.

Of the changes that have taken place in the structure and function of the State government during the century, none seems more striking or more suggestive than the growth of this fourth department of government. Of course, the commissions are intimately connected with the three traditional departments in certain ways, — *e.g.*, appointment, reports, *etc.*, — and are dependent upon them in an important respect for supplies, *etc.;* nevertheless, they have a field of their own, an orbit traversed only by themselves.

In Massachusetts, where the system has attained its fullest development, complaints are frequently heard of the multiplication of boards and commissions, of their failure to work together, of their irresponsibility, and the expense necessary for their maintenance; but one who studies the signs of the times will hardly expect that the functions assumed by these organizations will be given up by the State. Most of them have clearly demonstrated their usefulness.

The growth of the commission system stands in intimate relation with a clearly discernible tendency in the character of the governor's position. While the office of President of the United States has been growing in power since the adoption of the Constitution, the office of governor in the States has been decreasing in importance. The reason is, in large part at least, that with the growth of administrative work on the part of the national government has gone a corresponding increase in the influence of the President. Usually Congress, when establishing new administrative features, has placed them under the President's direction; and as he has had, during almost the whole period, full power of *removal* as well as of appointment, he has been enabled personally to control and direct the whole administration from top to bottom. Very different has been the history of the governor. Whether from jealousy or from distrust, it has been the almost invariable practice for the legislature to retain

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in its own control a considerable amount of administrative work; and what has been transferred to the executive, has been given to him with qualifications.

A reversal of this policy is strongly advocated in some quarters, and a vigorous effort is making to rehabilitate the governor, — to make him, not merely the nominal, but the real head of the administration, responsible for its doings, and able to carry out a consistent and comprehensive policy. It is not sufficient, the argument goes, to give him merely the power of appointment: it is necessary that he have also the power of removal. If we believe, as we claim we do, in the old Montesquieuan view of the necessity of a division of the powers of government among three departments which shall be independent of one another, and sufficiently powerful to act as a real check upon one another, something must be done to raise the executive from the position of innocuous desuetude into which it is slowly sinking.

To make the governor the real head of the growing administrative organization that is seen in the boards and commissions, would greatly strengthen his position, and at the same time do away with this *fourth department*, composed of independent administrative bodies, which seems to have no true place in our system of government, and which prevents the proper working of our system of checks and balances.

### *IV. Relation of the Boards and Commissions to the Courts.*

It is important to know the legal status of these new organs of government. They have occasionally come in contact with the courts: how have they fared? May a legislature delegate such important powers as are now exercised by many commissions? Does the legislature itself possess the powers which commissions claim? If the legislature does possess them and may delegate them, are there restrictions in the United States Constitution or elsewhere on their exercise by these commissions? Such are the more important questions that present themselves on any extended examination of this subject. These various questions I now propose to answer, so far as possible, in the words of the court. The first question is that as to the right of the legisla-

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ture to supervise, regulate, or manage the various matters that have been intrusted to boards and commissions.

The Supreme Court of the United States, in the famous case of Munn *v.* Illinois,[1] laid down this principle in the course of their decisions: —

> When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created.

Certainly this is a very broad doctrine, and seems sufficient to cover the different interests represented by the State boards and commissions. It has not gone without question, however; and in the case of Budd *v.* N. Y.,[2] decided in 1892, the case of Munn *v.* Illinois was reviewed and adhered to. But there was a strong dissenting opinion, and the following extract will give the point of view and ground of objections: —

> The vice of the doctrine is that it places a public interest in the use of property upon the same basis as a public use of property. Property is devoted to a public use when and only when the use is one in which the public in its organized capacity, to wit, the State, has a right to create and maintain, and, therefore, one which all the public has a right to demand and share in. The use is public, because the public may create it, and the individual creating it is doing thereby and *pro tanto* the work of the State. The creation of all highways is a public duty. . . . But this public use is very different from a public interest in the use. There is scarcely any property in whose use the public has no interest. . . .
>
> The paternal theory of government is to me odious. The utmost possible liberty to the individual, and the fullest possible protection to him and his property, is both the limitation and duty of government. If it may regulate the price of one service, which is not a public service, or the compensation for the use of one kind of property which is not devoted to a public use, why may it not, with equal reason, regulate the price of all service, and the compensation to be paid for the use of all property? And if so, *Looking Backward* is nearer than a dream.

[1] 94 U. S. 113. [2] 143 U. S. 517.

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This view was not, however, the view of the court, and we must conclude, from the above discussion, that the legislature possesses the power in question. The next point to be considered is its right to delegate the exercise of the power to boards, commissions, or officers.

In the case Railroad Co. *v.* Gibbes,[1] decided by the United States Supreme Court in 1892, the question of compelling the railroad companies to bear the expense of maintaining a State railroad commission was under consideration. The court, after showing that the provisions of the law assigned to the railroad commission certain duties, which, when "properly discharged, must be in the highest degree beneficial to the public, securing faithful service on the part of the railroad companies, and safety, convenience, and comfort in the operation of their roads," proceeded to state its opinion that "the State had, without doubt, the power to prescribe the regulations mentioned, because, though the railroad companies were private corporations, their uses were public." It then uses the following language, of special importance to the point under consideration: —

> The regulations may extend to all measures deemed essential not merely to secure the safety of the passengers and freight, but to promote the convenience of the public in the transaction of business with them, and to prevent abuses by extortionate charges and unjust discriminations. It may embrace a general supervision of the operations of their roads, which may be exercised by direct legislation, commanding or forbidding, under severe penalties, the doing or omission of particular acts, *or it may be exercised through commissions specially appointed for that purpose. The mode or manner of regulation is a matter of legislative discretion.* . . .[2] When exercised through commissions, their services are for the benefit of the railroad corporations as well as of the public. Both are served, . . . and there would seem to be no sound reason why the compensation of the commissioners in such cases should not be met by the corporations supervised.

As bearing directly upon this point, Professor Thayer's comment will be of great interest: —

[1] 142 U. S. 386.

[2] Italics are mine.

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It may be doubted that there is any difference between the action of a legislature and that of a legislative commission, as regards the questions involved in such a case as Chicago, *etc.*, Ry. Co. *v.* Minnesota, when once it is clear that the legislature has really undertaken to confer upon the commission the power in question. If the legislature can exercise it, it would seem that it may confer on the commission a like authority.

Yet, as regards subordinate bodies, there is always the question of construction as to what authority has, in fact, been conferred on them; and in passing on this, established common law principles are applicable, which ordinarily, and in the absence of clear legislative intentions to the contrary, enable the courts to control their action as not authorized by the legislature. Similar action by the legislature itself can be condemned only if it be unconstitutional.[1]

Having now the opinion of the highest court in the land on the powers of the legislature and its right to delegate these powers, we pass to a consideration of the limitation on their exercise in the hands of a commission.

In the foregoing quotation from Professor Thayer, the point is emphasized that the powers of the commissions will be construed in the light of established common law principles unless the legislature clearly expresses its intention that the principles shall not hold. We find in the same line the Supreme Court insisting, in Chicago, *etc.*, Railway Co. *v.* Minnesota,[2] that the provision in the United States Constitution, that no person shall be deprived of life, liberty, or property without due process of law, prevents a railroad commission from passing finally on the rates to be charged by a railroad company when no judicial inquiry is instituted, that is, when there is nothing that corresponds with due process of law. The Minnesota statute that established the railroad commission was interpreted by the supreme court of that State as providing that the rates settled upon by the commission should be final and conclusive as to what are equal and reasonable charges, and that there could be no inquiry by the courts as to the reasonableness of said rates. Accepting this

[1] Thayer: Cases in Constitutional Law, I, 672.

[2] 134 U. S. 418.

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interpretation of the statute as correct, the Supreme Court of the United States declared: —

> It deprives the company of its right to a judicial investigation, by due process of law, under the forms and with the machinery provided by the wisdom of successive ages for the investigation judicially of the truth of a matter in controversy, and substitutes therefore, as an absolute finality, the action of a railroad commission which, in view of the powers conceded to it by the State court, cannot be regarded as clothed with judicial functions or possessing the machinery of a court of justice. . . .
>
> No hearing is provided for, no summons or notice to the company before the commission has found what it is to find and declared what it is to declare, no opportunity provided for the company to introduce witnesses before the commission, in fact, nothing which has the semblance of due process of law; and although, in the present case, it appears that, prior to the decision of the commission, the company appeared before it by its agent, and the commission investigated the rates charged by the company for transporting milk, yet it does not appear what the character of the investigation was, or how the result was arrived at.

The principle here enunciated as applying to railroad commissions will, of course, apply to any other commission that tries to exercise the power of regulating charges. It is clear, therefore, that the federal courts stand as a bulwark against any final deprivation of life, liberty, or property by a commission, and that the actions of the commissions are subject to review by the courts. Undoubtedly, this is a serious, though probably a salutary, restraint. The difficulty is that the court must judge a mass of detailed information that it has neither the time nor the expert knowledge to consider properly, and a conscientious attempt of the judges to master the problem gives the opportunity, so frequently abused, of delaying the operation of the commission's orders in a given case.

### *V. Relation of the Boards and Commissions to the Local Governments.*

In the establishment of all the State commissions, and especially of the executive commissions, there is observable a decided move-

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ment toward centralization. It is curious to note in this connection, that in the countries of the Old World where centralization has been carried farthest, namely France and Germany, there is a decided movement towards decentralization.[1] It is probable that extreme centralization and extreme self-government of localities are both undesirable, and a moderate degree of each is preferable. This, it seems to me, is the conclusion derivable from experience in the four countries of the world where government and administration have received the most intelligent and continuous consideration. Thus, it is going too far in the direction of centralization, it seems to me, when the control of the local police is taken from the locality; and too far in the direction of local self-government when great thoroughfares, in which many communities are interested, are left to the unaided and usually unintelligent management of a non-progressive locality. There is a mean here, as elsewhere, and it is the place of the statesman to discover it. He must find the point where local self-respect and initiative are preserved, and yet the general interests are sufficiently secured.

The experience of the Massachusetts Highway Commission presents something of value in this connection. It has been so universally the custom in this country to make the roads a local matter, that intrusting to the State a share in construction and management was pioneer work, with no precedents.[2] Careful consideration was given to the best way of preserving local interest in the roads, and also of preventing that "pauperizing" of localities so apt to occur if the State assumes the whole burden. The following points embody the solution of the problem that commended itself to the framers of the Act organizing the Massachusetts Highway Commission: —

[1] "Now while the tendency of the United States and England has been towards administrative centralization, the tendency in France and Germany has been towards administrative decentralization. Within the last twenty years, many matters which formerly were regulated by the instructions of the heads of departments have been put into the hands of the officers of the localities to be attended to in their own discretion." — Goodnow.

[2] New Jersey, it is true, had made some beginnings in general road improvement, but the plan did not involve centralization.

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(1) Road construction is undertaken by the State commission only on petition by local authorities.

(2) One-fourth of the amount expended by the State must be returned within six years by the counties in which the work is done.

(3) The localities are encouraged to bid for the construction of the roads in their areas, and are given thirty days to decide whether they will elect to do the work at the terms proposed by the commission. If they do not so elect, private contractors are permitted to bid.

The value of these provisions will be recognized at once. Not only will the attention of the people be turned to the condition of the highways in their vicinity, but, if they undertake the work, much valuable experience will be obtained in scientific road-building; for all work must be done according to the plans and under the supervision of engineers sent by the State commission to reside at that point until the work is completed. Again, by sharing the expenditure with the State, the locality will have a deeper interest in the road, and feel very much as if it were paying its own way; for even a fourth of the whole cost of construction will involve a perceptible increase in the tax levy.

After a short experience, it was found desirable to simplify the process of petitioning for road construction. It has also been made easier for towns and cities to undertake for themselves the work of construction, by repealing the rather ill-advised check on the commission's power to contract. The first Act stated that the town or city could not be allowed more than eighty-five per cent of the original estimate of cost of construction made by the commission. A later law leaves the matter of terms without any such limitation.

Massachusetts has made other attempts than the one just noted to adjust properly local self-government and State control. The most interesting, perhaps, are the various metropolitan commissions, that have for their object the unifying of the action of several communities grouped around a great city. The duties and powers of these commissions have already been described, and I refer to them here simply to note the difference between the solution adopted by Massachusetts and that adopted by New York

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and Illinois for the same problem. In the latter States, Chicago absorbed its environs bodily, and New York did likewise. Boston, bearing, it is true, somewhat different relations to its nearby towns, has been content to secure united action in certain important matters by the appointment of these metropolitan commissions, but has left the several towns free to manage their own local affairs. This would seem to be following closely the example of our national system, and it is quite in line with the idea of the golden mean between State and local control.

### *VI. The Future of the Commission System.*

It seems hardly possible that the present system of almost independent commissions can be permanent. They fail to work in harmony, to co-operate, to give each other the benefit of experience that might be helpful. In the absence of a central control, there is no way to co-ordinate the duties of the several boards. The present seems to be a transitional stage, arising from the gradual assumption, by the State, of new duties without an adequate realization of all that is involved, and without any general plan. One can see in it a certain likeness to conditions just before Napoleon I assumed the government of France, and I am tempted to predict an outcome similar in nature to the administrative system he established. The French precedent is thus described by President Woodrow Wilson: —

> The Convention and Assembly had endeavored to direct affairs through Committees, Commissions, Councils, Directories, — through executive *boards*, in a word. For such instrumentalities Napoleon substituted single officers as depositaries of the several distinct functions of administration; though he was content to associate with these officers advisory councils, whose advice they might ask, but should take only on their own individual responsibility. "To give advice is the province of several; to administer, that of individuals," says the maxim which he engraved on the pediment of the administrative arrangements of France.[1]

It will be noticed that Napoleon provided for advisory councils. Perhaps this would solve the problem of securing the advice

[1] The State, rev. ed. p. 214.

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and assistance of persons whose experience or talents would be of great value to the State, but who cannot be induced to enter its service as paid employees. If such persons could be associated, as an advisory body, with the executive head of each department or division, the double advantage of wise council and efficient administration would be attained.

Such a solution of one great problem must be accompanied by some scheme for the proper grouping of the commissions into executive departments. No doubt a number of possible combinations might be proposed. I suggest the following scheme, which provides for all the important boards, and groups together those handling similar matters. It is based on the existing conditions in Massachusetts: —

Department of Education: Public Schools; Nautical Training; Free Public Libraries; Normal Schools.

Department of Examinations: Civil Service; Dentistry; Medicine; Pharmacy; Pilots.

Department of Manufactures: Labor Statistics; Arbitration and Conciliation; Inspection of Manufactures; Lumber, Liquors, *etc.*

Department of Agriculture: Agriculture; Cattle; Dairy; Horticulture; Inland Fish and Game.

Department of Corporate Control: Railroads; Gas; Telephone; Street Railways; Banks; Insurance.

Public Works: Highways; Parks; Sewerage; Buildings; Land; Harbor.

Department of Charities and Corrections: Lunacy, Feeble-Minded, Blind, *etc.*; Charity Work; Prisons, Reformatories, *etc.*

Department of Public Safety: Health; Fire Marshal; Police.

By way of summary and conclusion, the whole situation may be thus put: —

The people of the several States, especially those in which there is an active commercial, political, or intellectual life, are steadily insisting that their State governments shall take a more active part in affairs, shall be a positive force in creating better conditions and regulating old ones. They have been feeling their way by the establishment of commissions, charged especially with certain duties of this nature.

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From the first, appointments to the paid places have to a considerable extent been made without due regard to fitness or special ability. The non-paid places have frequently secured excellent men; but because these have been unable or unwilling to give their whole time to the State, certain evils have arisen from the partial service. Gradually, however, there is arising a demand for the best men and for their whole time. When this demand becomes sufficiently strong to insure adequate compensation, permanent employment, and considerate treatment, the State will be able to secure the service it needs.

Meanwhile a movement for consolidation of the boards into departments has been growing. Eventually, departments will be formed in most States, I believe, and perhaps there will be attached to them advisory councils, made up of citizens whose wisdom and influence could not otherwise be secured. The governor will be the head of the administrative system, and responsible for its proper management. Like the President of the United States, he will have the power of removal.

How far the State will go in its supervisory, executive, and examining work, no one can predict; but the end is still far off, and I look for a great extension of State activities. Yet it is to be hoped that it will not go so far as seriously to check individual initiative nor weaken personal responsibility.

Francis H. White.

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## THE FRIARS IN THE PHILIPPINES.

THE arguments for and against the Spanish friars, who still constitute the chief problem of the Philippines, are in general based too much on opinion and too little on knowledge. Attacks on the friars are usually characterized by glittering but unfounded generalities; while on the other hand, the defenses of the friars put forth in this country, by ecclesiastics and by laymen, both Catholic and Protestant, have in many cases been either reckless partisan diatribe or verbatim translations of *ex parte* statements coming from the friars in the islands (the sources almost never being given). In the present article it is proposed to state in briefest outline, with mention of the authorities, the main historical data as to the régime of the friars in the Philippines.

Magellan's voyage of discovery, 1519–21, and the subsequent voyages of Loaisa and Villalobos were undertaken for commercial, not missionary, purposes, being inspired by the hope of locating "spice islands" for Spain. Five friars (Augustinian) set out with Legaspi on the expedition from Mexico which finally resulted in permanent occupation of the Philippines. By some recent Philippine historians Legaspi is represented as the mere plaything and tool of Friar Andrés de Urdaneta, the leader of these five. Urdaneta had donned the Augustinian habit only at fifty-three, after a career as soldier in Italy and as ship-captain and explorer under Loaisa. He had a large part in planning Legaspi's expedition, and he laid out the course of the ships for New Guinea. Though forced to change the course under the instructions given by the Mexican authorities, Urdaneta and the other friars, when the Philippines were reached, still opposed a permanent settlement there. That such settlement was made, indicates well enough that Legaspi [1] was no tool of the other. A month after they landed on Cebu (April 27, 1565), Urdaneta and another friar set sail for Spain, *via* Mexico, to report to the king,

[1] He had held prominent office in Mexico, and he paid half the cost of the expedition with his property.



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and never returned. Before Legaspi's death in 1572, he had founded on Cebu the first Spanish town, begun settlement of the central islands, taken Manila and established there the capital, and had seen half of Luzon brought under Spanish suzerainty.

Before we can justly estimate the character of the work done by the friars among the Filipinos, we must have a fair idea of the state of the latter at the time of the Spanish conquest. Such a fair idea it is difficult to get. The early conquerors and missionaries were little interested in the questions of modern ethnology and social science, and were scarcely fitted to answer them. Remembering how the early missionaries to Mexico labored to destroy, as works of the devil, the picture-writing, the temples and the other monuments of Aztec civilization, we should expect even less toleration from their brethren in the Philippines. The people here were of milder habits than the Aztecs; they had probably no substantial architectural monuments, and the evidences as to their state of culture were considerably fewer, and easier to destroy. Of late years, particularly in the heat of controversy from 1863 to 1898, there has been a tendency on the part of friar and pro-friar writers to depreciate the Filipinos in every way. In the loose state of knowledge about the pre-Conquest natives, it has been easy to make exaggerated charges as to savagery and degradation being prevalent before the Spaniards came. On the other hand, various Filipino zealots of the past decade or so, emulating José Rizal in his effort to give his people their just place in history, but lacking his intelligence and scholarship, have gone to ridiculous extremes in claiming for their race before the Conquest a civilization equal to that then prevailing in Europe, and charging that the friars stifled it.

Those who represent the natives as savages pure and simple before the Conquest do not quote freely from Friar Juan Plasencia, a Franciscan, whose treatise on the customs of the natives (first of its sort), in 1589, was adopted by the government for the use of its officials; nor from the *Sucesos de las Islas Filipinas* (1609) of Doctor Antonio de Morga, a member of the first *Audiencia* (Supreme Court) of the Philippines. These works come nearest to giving a good contemporary view, yet are most unsatisfactory

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and incomplete. They show, however, that the Filipinos of the central islands and Luzon's western coasts were somewhat past the clan stage and had a political organization under local chiefs which virtually amounted to a mild feudalism, their so-called slavery fitting better under this head; that they had a system of laws or customs, administered by the councils of old men; that their religious ideas, undeveloped and imbued with superstitions as they were, included nevertheless the recognition of a Supreme Being (the contest between Mohammedanism and Christianity among these Malays in the sixteenth century, with their readiness to accept either, is significant and illustrative); that they had a system of writing based on a phonetic alphabet, doubtless derived from the same source as that from which ours came in the dawn of history, and that some in each community could read and write; that they had long since passed the nomadic state — undoubtedly long before the Malay migrations to the Philippines.

Discarding exaggerations and matters in doubt, we know that polygamy was then practiced by Filipinos of sufficient status to maintain more than one wife; that the morality of the women left much to be desired, under the standard then obtaining, publicly at least, in European society; that gambling was by no means learned from the Spaniards, though new ways of gambling were; that the petty chiefs were frequently at strife with one another, these tribal wars not contributing to the progress or the happiness of the people; that agriculture and such arts as weaving, making pottery, *etc.*, were in a primitive state, as indeed they still are. The natives had iron implements of warfare and various articles of other metals, but contact with the continent of Asia explains these. They were in regular intercourse with China and with Japan, Borneo and other islands some centuries before Spanish discovery. In his little-known work Chao-Yu-Kua, a Chinese geographer of the thirteenth century, describes the Philippine trade.[1] The Chinese then obtained from the Filipinos not only such raw materials as yellow wax, cotton, pearls, tortoise-shells, betel-nuts, cocoanuts and vegetables, but also jute fabrics (prob-

[1] Chapter 1. Dr. Ferdinand Blumentritt, the Austrian scholar, translated this chapter for José Rizal, comparing it with Dr. Hirth's English version.

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ably those woven from *abacá*, Manila "hemp" as to-day), other woven goods (of cotton, Blumentritt suggests) and fine mats. The Filipinos took in exchange porcelain, gold, iron, needles, vases for perfumes and lance-heads, articles of lead, silk parasols, black damask and other silks. Chao-Yu-Kua tells of their settlements, a thousand families each, their houses of cane being clustered on high places. This was nearly three hundred years before Magellan.

As missionaries of the various orders (more Augustinians and also Franciscans, Dominicans, Jesuits, and Recolletans) arrived in greater numbers after 1570, and the policy of occupying the Philippines became more fixed at Madrid, the work of converting the natives to Christianity and to some European ways of living was taken up with fervor and pushed with great zeal and success, though not until after repeated attempts had been made by many of the friars to abandon the Philippines for the more attractive field of China. The record of peaceful conversions, by the thousands almost, cannot here be recapitulated. It reads like a romance. No less astonishing is the story of Captain Juan de Salcedo's wonderful marches in then unknown Northern Luzon and his almost peaceful acquisition, with the aid of a handful of soldiers, of thousands of square miles of territory for the Spanish Crown.[1] One is forced to ask himself how far the unwarlike, docile natures of the natives of the indolent tropics contributed to the extension alike of military conquest and of religious conversion. Friar Herrera, when dissuading Philip II from the proposed abandonment of the Philippines, is said by a recent Augustinian writer to have painted "with eloquent enthusiasm the simple nature of the natives and their excellent dispositions of soul for receiving the benefits of religion and civilization." [2]

As already seen, we must reject the claim that the friars introduced village life; but under their guidance the communities centered more and more about the churches, at first rude wood structures, but very soon more or less imposing stone edifices, which were built under their supervision. European dress and

[1] See José Montero y Vidal, Historia de Filipinas, Vol. i.

[2] Fr. Eladio Zamora, Las Corporaciones Religiosas en Filipinas, Madrid, 1901.

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ways of family life were to some degree urged on the natives, with adaptations to tropical conditions. Naturally, the *padre* was particularly desirous of bettering the ways of communication through tropical forests or overgrown country between the villages forming his mission, and hence roads were opened. The friars set to work also to improve agricultural methods and products.

Forced labor was made use of by the friars in building the churches and their dwellings (called "*conventos*"), as by the military-civil administrators in making highways, bridges, *etc.* It was employed extensively also in providing ships and fortifications for defense against the Moros, who periodically scourged the coasts of the central islands and even of Luzon. The friars were always most vigilant and active in the operations against these pirates, and hence were closely identified with the system through which labor was secured. This system was introduced by the civil officials and was a natural one, under early conditions — a sort of road-tax. It later acquired an unsavory reputation. The labor thus owed to the government was frequently hired out to individuals, and public works in many provinces were neglected, while official pockets were lined.[1] Moreover, it was one of the various institutions through which the burden of taxation in the Philippines was put upon the poor; Spaniards, *mestizos*, and those few pure-blood natives who became "*principales*" in their towns, were exempt from service. The first revolts against Spanish authority, except little conflicts during the establishment of control in Cebu, Leyte, and Manila between 1565 and 1590, were caused by the rather harsh imposition of forced labor. Such risings were merely local as a rule, but Montero y Vidal describes one which began in Samar in 1649 with the murder of a Jesuit, and spread over the central islands and to Luzon and Mindanao. There was a similar rising against a Jesuit in Bohol in 1750.[2] In the main, however, the missionaries were zealous to protect the natives from anything like enslavement

[1] See Appendix to Retana's edition of Zuñiga's Estadismo, under heading "Polistas."

[2] Montero y Vidal, *op. cit.*, Vol. i, p. 478.

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or from being overburdened with tributes by the conquerors to whom Spain at first gave whole provinces to rule.

The early missionaries were teachers before they could be preachers. Though their instruction was confined to the catechism and the little learning incidental to this, no unprejudiced person can fail to render tribute to their labors in mastering the dialects and in patiently instilling knowledge which, though presented in what we should to-day call a narrow manner, was nevertheless bound to have an enlightening and uplifting influence upon that people. It is to the credit of the friars also that institutions of higher learning were early formed in the Philippines. But we must not be misled by some writers into imagining that this was a movement for the fuller education and culture of the natives. The College of St. Joseph, opened by the Jesuits in 1601, was at the outset for the sons of Spaniards only. The Dominicans' College of St. Thomas (styled a "royal university" in 1845) was established for the training of young Spaniards in theology. These two were bitter enemies, the Dominicans for a time keeping the Jesuits from the right to confer degrees. During part of the seventeenth century the natives were excluded from both institutions; but the Spanish government, having aided them with donations of land, required them to enlarge their accommodations and provide for natives. Governor Anda reported in 1768 that there were only eighty or ninety enrolled in both colleges. We occasionally hear of the "thousands of Filipinos" graduated by them. In the nineteenth century particularly, the *mestizos* (mostly the propertied class) have flocked to their doors; but comparatively very, very few pure-blood Filipinos have ever had anything but a village-school training; they have not been able to afford it. Of the six secondary schools outside of Cebu and Manila, four were, according to Father Zamora himself, set up during the past century.

The failure of the friars to secure the general use of the Spanish language in the islands has been much discussed in recent years. The first royal decree directing that all the natives should receive instruction in Spanish was issued in 1585, and the injunction was repeated three times in the seventeenth, and at least four times in the eighteenth, century. The end sought by these was

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not realized. But on the other hand full recognition must be given to the faithful and successful work of the early friars in acquiring the native dialects, without which their great missionary achievements would have been impossible. At the same time, it should be stated that their work in the dialects was not always so scholarly as it claimed to be. The early fathers tried to arrange the agglutinative Malay dialects by the rules of the only grammar they knew, the Latin; and their unscientific work is laughable, as well as confusing, for a student to-day.

By 1600 Manila had a hospital for Spaniards and a little hospital for natives, as well as a "house of mercy" and a Chinese hospital (later abandoned). The first printing-press was at work in Manila before the landing on Plymouth Rock. The status of women has long been higher among the Filipinos than ever yet anywhere else in the Orient; to the friars' introduction of Christianity belongs the credit. The Filipinos seem by nature to be so temperate, that we must be skeptical toward the tales of their excessive drunkenness and licentiousness at the time of the Conquest. If the friars could so entirely reform a people in this respect, why have they not checked the vice of gambling, for instance, so demoralizing as it is in the islands? Beyond question, however, they deserve credit for a considerable improvement in morals effected between 1565 and 1700.

This "heroic age" of the missionaries, zealous in their work, fatherly protectors of the natives, and wise colonizers and even administrators for Spain, lasted, roughly speaking, until the end of the seventeenth century. By 1700 nearly all the lowland Filipinos were, nominally at least, Christians; all the principal islands but Mindanao were divided into parishes about as completely as to-day, though further subdivision was effected later as population increased; conversions to Christianity henceforth were limited to those secured by the Jesuits among the Moros and by the desultory efforts of other orders among the wild mountain peoples of other islands. Missionary days were over; yet the friars resisted, and have for two hundred years since resisted, secularization of their parishes. So, too, they opposed, as they still oppose, any interference with the control they had early gained in local and central governments. At the same time there was ap-

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parent a relaxation of the missionary fervor; no longer did the friar-writers (as a rule) express enthusiasm over work among the natives; a feeling of contempt for them was already traceable. So opened the eighteenth century.

That century brought on the scene some few vigorous, independent governors-general, who refused to take friar advice on their policies or who were under explicit instructions from Spain to carry out measures which were disapproved by the orders; hence that century is replete with civil-ecclesiastical conflicts. In the long run, the orders triumphed; for they outlasted any governor-general in Manila, and most of the time they dominated at Madrid.

A sudden increase in Spain of interest in the Philippines followed the resounding controversies over trade regulations, between the Spanish cities engaged in manufacturing silk, *etc.*, and Spaniards in Mexico and the Philippines. Early in the eighteenth century, plans for taking education more into the hands of the government and for secularizing the parishes were formed, reaching from time to time the stage of decrees. The organization of a seminary to train natives for the priesthood was decreed in 1702, but the ecclesiastical authorities prevented the opening of the institution until 1772, when Governor-General Anda and Archbishop Santa Justa y Rufina were in accord on it. The king decreed in 1714 a secular university, beginning with courses in theology and law; and in 1719 Manuel de Bustamante, the Governor-General charged with carrying out this plan, was, as a result of various strifes with the orders, slain in the governmental palace in Manila by mutineers organized and led by the friars and Jesuits, the palace-guard fleeing before the crucifixes of the fathers.[1]

We begin to find in this century also agrarian disturbances in the vicinity of the friar-estates, prototypes of the revolts of 1872 and 1896. In 1743, the people around Balayan, Batangas, had, in protest against what they considered usurpation of their lands by the Jesuits (who then had estates there), led a revolt which spread over a large part of Batangas and cost the Spanish army (mostly natives from Pampanga) a number of lives.[2] In the

[1] See Montero y Vidal, Vol. i, p. 413.

[2] *Ibid.*, Vol. i, p. 478.

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same year and that following there were repeated and serious disturbances about those Tagalog towns in Cavite, Manila and Bulacan provinces, where the principal friar-estates then lay and still lie. Governor-General Gaspar de la Torre appointed a special commissioner to investigate complaints and to pacify the people. A royal Cedula of November 7, 1751, summarizes the work of this commissioner, Judge Pedro Calderon Enriquez. The document recites the people's complaints that the friars had "usurped their lands without leaving them the liberty to fish in the rivers, to cut wood, or even gather the wild fruits in the forests, or to pasture their *carabaos* on the hills about the pueblos," and had exacted unjust charges for the use of the soil, for water to irrigate, for wood, *etc.* The commissioner cites instances where friars' estates had been illegally enlarged through collusion of government officials, and is most explicit in his charges of fraud, corruption, and usurpation against both officers and friars. In view of this report the king ordered a re-establishment of the legal boundaries, and suspended and heavily fined the Secretary of the *Audiencia*, who participated with the surveyors in the fraud. This very land, within at least some of the extended boundaries as well as the original tracts, is the present subject of negotiation between Governor Taft and Monsignor Guidi.

Simon de Anda, the vigorous soldier who, with his native troops from Pampanga, succeeded in confining the English in Manila in 1762–63, and thus probably saved the Archipelago for Spain at the making of the Treaty of Paris of 1763, is a picturesque figure in these friar controversies. The city was pusillanimously surrendered by Archbishop Rojo, the ecclesiastic who was at the time serving also as Governor-General (a common practice, thereafter forbidden). The Jesuits promptly raised the English flag on their monastery and went bodily over to the supposed new sovereignty.[1] Though the other orders furnished Anda with financial support and otherwise assisted him, there was yet much division of loyalty among them, since he was denounced as a usurper of authority by the Archbishop. The antipathy engendered by this and by other causes was cherished by Anda when

[1] This was one reason assigned for their expulsion in 1768, though that followed the general order for their expulsion from all Spanish dominions.

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later he became governor-general, and he aroused bitter opposition from the Augustinians and Dominicans, especially by his support of the efforts of Archbishop Santa Justa y Rufina to visit and inspect the friars' parishes and to install secular priests. Even before that, Anda had in 1768 addressed a notable "Memorial" to King Charles III, which the friar histories omit. Its title is significant:

> Memorial . . . detailing thirty-seven abuses or disorders that have grown up in the Philippine Islands under the cloak of religion and at the expense of the Royal Treasury, which ought to be cut off at the root, so that the Governors sent to those parts, if good, shall be better, and if bad, be no worse, and that at least they may have no good excuse to offer [for shortcomings]; that the King may be lord of those dominions (up to now, he has been so only in the paying of the costs); and finally, that the vassals of His Majesty, Spaniards as well as Indians, be the vassals only of their King and escape from the abominable slavery under which they have labored for nearly two hundred years.

Among the abuses cited are simony, excessive church fees, and retrogressive educational methods. It is alleged that the friars assume to be the supreme representative of authority and belittle the dignity of lay officials; intrigue for the removal of such officials, both small and great, who will not submit to dictation; seek to keep other Spaniards than the friars themselves out of the provincial towns; fail to teach the natives the Spanish language; and in general encourage stagnation rather than progress.

Archbishop Santa Justa y Rufina was one of the comparatively few prelates the Philippines have had who were not friars. Genuinely solicitous for the native's best welfare and earnestly desirous of curbing some of the abuses that had grown up, he lent himself energetically to co-operation with Anda in measures of reform, civil and ecclesiastical. The opening of a seminary for native priests has already been noted. Anda also urged on the home government the secularization of all educational institutions, beginning with the Dominican university and secondary school. The archbishop promulgated a schedule of fees to be charged for baptisms, weddings, funerals, *etc.* The storm raged

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principally, however, about his efforts to enforce episcopal visitation and inspection of the parishes in his diocese. This was no new controversy; three archbishops, one himself a Dominican, had asserted the episcopal prerogative, and each in turn had eventually lost in the fight with the friars, who were powerful at Rome. The contention was that, when the friars, who were properly missionaries, assumed the functions of secular priests in organized sees, they became subject to the visitation and discipline of the bishop. The friars always insisted that they were responsible only to the superiors in their order, with whom the bishops must deal. The triumph of the friars appears, not in any decision of the principle involved, but in the removal of the prelates who opposed them on this point.

The contest waged by Anda and Santa Justa on one side and the friars on the other was too violent and acrimonious not to be attended by extreme and reckless measures on both sides. In his haste to secularize the clergy and his zeal for the advancement of the natives, the archbishop caused Filipino priests, too often fitted neither by general educational nor by ecclesiastical training, to be hurriedly ordained and put in the places of many of the friar pastors. Quite naturally, most, though not all, failed to come up to the mark; and the archbishop later was compelled sadly and reluctantly to admit that he had made a mistake. He and Anda were both ahead of their times in liberal measures, and the archbishop had tried to force the times. Without discussing at large the merits or demerits of the native priesthood, it is certain that this over-hasty attempt to install it resulted in a reaction which enabled the friars to strengthen themselves in control of the parishes for years to come.[1] The seminary for native clergy

[1] The controversy in the Islands is in large measure a phase of the perennial antithesis of regular and secular clergy throughout the Catholic world. The claim of the seculars is that the regular clergy can exercise the functions of parish priests only temporarily, during time of necessity, as when the missionary work is still the most important in a country, — in China, for instance; and that, when a country has been regularly organized into bishoprics, the Council of Trent requires that then only secular clergy exercise the functions of the priesthood, except temporarily and by special dispensation of the Pope. A petition to the Pope of November, 1901, signed by many Filipinos, embodies an interesting exposition of this position.

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fell into "innocuous desuetude." Similar establishments, placed under the Paulist Fathers in the past century, have marked improvement in this respect; but the native priests claim that the courses of instruction, under control of the friar-archbishops, have purposely been limited. The revolt of 1872 was, in its inception, a protest of the native priests, and the execution of three of them caused it to spread.

It is during the last quarter of the eighteenth century, and at intervals during the nineteenth, that we note more or less intelligent and sustained efforts on the part of laymen in the Islands to rouse the country from its industrial lethargy and general state of internal unprogressiveness. A case in point was the organization at Manila in 1781, of the "Economic Society of Friends of the Country," composed of government officials, merchants, and owners of estates. This was in the administration of Governor-General Basco y Vargas, who was quite as energetic as Anda and less military in methods. The society had a spasmodic existence until 1890, and a catalogue of the things it tried to do is clear evidence as to the previous backward state of agriculture and industry in general. It sought to promote the cultivation of cotton (hardly so widely grown then as at the time of the Conquest, and to-day virtually confined to two provinces), of the cinnamon-tree (native in Mindanao, found there by Magellan, but never developed), of pepper and of silkworms; and to improve dyestuffs and methods of dyeing; it published the first periodical of commerce; it became patron of the first course in agriculture in the friar schools of Manila in 1821, and established a school of design; it introduced birds from China to destroy the ravaging locusts; it labored for removal of the export duties on rice, taught improvement of the breed of horses, and gave the impulse to the development which made *abacá* (Manila hemp) the leading product of some provinces and islands.[1]

Its activities, mostly spasmodic to be sure, are catalogued here as bearing on the claim frequently made that the friars in their parishes and the friar-estates did all, or even most, that was

[1] All these things are accredited to the society by W. E. Retana, bibliographer, a pronounced friar-eulogist.

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ever done to develop the Islands agriculturally. What they did at the start has been referred to. Long before 1800, however, a woeful state of stagnation had been reached, due in large part, it should be said, to the restrictive commercial measures of the home government and its policy of monopolies.[1] This system, which England has at times followed in the Orient, and Holland still follows to some extent, had its benefits, no doubt; but the time had passed for it in the Philippines before Spain gave it up. It was a millstone about the neck of such progressive movements as have just been noted.

Nor can we give the friars credit for all agricultural improvement before 1781. Says Montero y Vidal: "Agriculture was in a relatively prosperous state at the time of the Conquest. They cultivated rice, sugar-cane, cocoanuts, potatoes, Chinese oranges, indigo, *etc.*" Irrigation was not unknown, as witness the rice terraces and neat irrigation trenches of the still unchristianized Igorrotes of Benguet, Luzon. About all the coffee grown in the Islands to-day is grown in this Igorrote country. The great coffee-plantations of Batangas province, destroyed ten years ago by weevils, were due to the efforts of the Augustinian curate of Lipa about 1812. Cacao, however, was introduced from Mexico to the Philippines by Governor-General Diego Salcedo, 1663–68, and leading Tagalogs as well as friars and Spanish laymen helped spread its culture.[2] The natives used two indigenous species of indigo for coloring purposes before the Conquest; their defective methods of extraction and application were never improved until the Economic Society took it up two centuries later; and then, though an Augustinian supervised the experiments made, a Spanish merchant financed them. We have no definite knowledge as to whether it was civilians or friars who introduced maize, chili peppers and tomatoes from Mexico. Sugar-cane became a product of importance under Spanish rule; the development of its culture and of the processes of extraction is due chiefly to Spanish and *mestizo* owners of estates, particularly in Pampanga and

[1] The government monopoly of tobacco lasted until 1884.

[2] So states Father Manuel Blanco, an Augustinian, the leading authority on Philippine flora.

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Negros; but the finest plantations in the Islands, with steam-mills, are wretchedly wasteful and archaic compared with those of Hawaii.

The "model farms" were a comparatively recent governmental innovation, due to liberal ministries at Madrid, and they were not connected with the friar estates, though the friars eventually secured control of two of them. Despite optimistic reports, they amounted practically to nothing.

There was also an era of internal improvements, beginning under Governors-General Enrile and Peñaranda, as late as the decade 1830–40. Such roads as the "King's Highway," Dagupan to Vigan on the west coast of Luzon, were built as a result of this movement. We must give due credit to the friars of the early years for path-breaking in the wilderness; but the best roads and bridges to-day are in such provinces as Pampanga, where the landowners are mostly Spaniards and *mestizos;* and the Philippines are, in the main, a country without roads.

After the middle of the nineteenth century the friar controversy centered more and more about the question of education. Friar control of Philippine education remained virtually complete until 1863. We have noted the first approach to a trade school, in courses inaugurated through the efforts of the Economic Society. A nautical school, ordered established by royal cedula in 1791, through the influence of a sort of chamber of commerce organized in Anda's time, was opposed by the friars and did not open for thirty years; some claim that the friars opposed it because higher mathematics would be introduced.

Meanwhile, various progressive and well-to-do Filipinos, dissatisfied with the opportunities provided in the islands, had, even before the nineteenth century, begun sending their sons to Spain and to Paris. There they came into contact with modern ideas in religion, politics, economics, *etc.*, and to some degree perceived the backwardness of their own society.[1] Naturally the liberal and democratic ideas then spreading in Spain — part of a movement by no means yet completed there — had their reflection in

[1] This movement of Filipinos Europeward was greatly stimulated by the opening of the Suez canal, with a resultant betterment of communication.

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the Philippines. Perhaps quite as naturally, the orders saw in all this new thought only atheism and Protestantism. One need not impugn their sincerity to hold that the issue was joined between mediævalism and modernism. It is Rizal's great charge against the friars in his novels that they sought to stem this current Europeward and marked for persecution every Filipino who strove to get into touch with modern science and modern progress in general.

In 1811 and again in 1822 representation in the Spanish Cortés was granted to the Philippines, and extensive reforms of internal administration were projected; but these were but temporary concessions under short-lived liberal régimes in Spain. The campaign which was to culminate in the insurrection of 1896 really began with liberal measures of reform at Madrid in 1863. First came a partial secularization of the primary schools. The decree provided for the same course of study as in Spain, and is in itself a revelation of the defects in the old Philippine primary education. The new system was left, however, under the *supervision* of the friars: the curate of each town was to be local inspector, which in practice commonly resulted in reducing the local school-boards, then first created, to nonentities; the superior friar official of each province was to be on the provincial school board; and the Rector of St. Thomas' University became, except for brief intervals, a sort of superintendent of public instruction for the Islands. In most parts of the archipelago the provisions as to school boards remained virtually null and void during the seventies and eighties. The most important provision of the law of 1863 was that establishing at Manila, under the charge of the Jesuits, a normal school for training native teachers. The Jesuits, since their return to the Islands in the nineteenth century, have devoted themselves solely to education and to strictly missionary work among the Moros and others, and they have been responsible for the introduction of modern methods and for much of the educational progress since 1863. They are on this account viewed with no little jealousy by the Dominicans.

Prior to 1863, primary education began and ended with daily lessons on the catechism and other books of religious exercises, and there was usually very little else in the middle. A primer

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was ordinarily the only text-book, strictly speaking. The non-religious instruction in the schools was given by village natives, who could read, write, and cipher to a limited extent, but commonly knew little or no Spanish. They were paid whatever slender pittance the friar-curate, who supervised or personally conducted the work with the catechism, felt that he could allow, and often eked out a living in the fields. While this was the system as described by various contemporary witnesses, conditions were in fact much better in many parishes, particularly in good-sized towns. The schools were just as good or just as poor as the friar-curate made them, since everything was left to him.

After 1863, and up to the American conquest, the catechism remained the chief feature of daily work in the primary-school, often relegating all else to an insignificant place — much depending upon the preparation, at best a scanty one, of the teacher. The badly printed and cheap little 150-page text-book prescribed by the government for the schools (the same as is used in Spain) was reader, writer, speller, arithmetic, geography, history of Spain and the world (Spain overshadowing), Spanish grammar (often not taught because the teacher knew little of it), and handbook of religious and moral precepts (many pages). A glance at this book will reveal how pitifully inadequate was the ordinary Filipino child's schooling at the best; for often not even this text-book was in use, no copies being on hand, or the teacher being equipped only in the local dialect. Even those of the teachers who had been trained in the normal schools were scarcely as well equipped with knowledge as an American child at the sixth grade. These same teachers are now, in the new government normal schools, not only taught how to teach the common branches, but in many cases have first to be taught the common branches themselves, particularly arithmetic.

The municipal reform of 1893, the "Maura law," in conferring a considerable degree of local autonomy on Philippine towns, made the newly created municipal councils also schoolboards. It was a farther step in taking from the "*padre*" the power to "visé" and supervise everything done, small and great, in a town. In promulgating the law, Governor-General Blanco (popular with the Filipinos for his liberal measures) took pains to explain that

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the priest's school-inspecting powers, so far as religious teaching went, were to be the same as ever. As a matter of fact, this reform of Minister Maura, sent forth amid much accompaniment of *proclamas* in Spain and the Islands, was virtually made a dead-letter under succeeding governors. Its non-enforcement, except in a few towns, was one of the complaints of the insurgents in 1896.

The decree of 1863 provided that, after fifteen years, the two principal town-offices should be held only by those who spoke, read, and wrote Spanish, and that after thirty years, no one not possessing these qualifications should be exempted from forced labor, *i.e.*, be one of the "*principalia*." In proclaiming the law of 1893, Governor-General Blanco instructed the municipal councils to employ "the most practical means for the diffusion of the Spanish language." The common assertion that the friars did teach the natives Spanish is contradicted by these provisions and by the numerous royal decrees from 1585 on; those who frankly admit that they did not spread Spanish, and who hold that it is impracticable to make the natives accept either Spanish or English, have a fair argument to present.

Even after 1863 the friars were, in the long run, usually able practically to nullify decrees aimed at secularization of education. The Islands were remote, and the shifting of administrations at Madrid invariably brought them sooner or later a chance for a hearing at court. The agricultural schools which were established in 1866 under government charge, with their "model farms," soon fell under friar supervision; their failure has been referred to. A "polytechnic institute" was opened at Manila with a flourish of trumpets, as inaugurating a government system of modern trade schools; it was soon in the hands of the Augustinians and virtually came to naught, instead of leading in a revival of the crafts.

The friars maintained complete control of secondary and higher instruction till the Islands were lost to Spain in 1898. A reaction from the liberal policy of 1863 to 1868 was stimulated by the appearance of a radical party in the Philippines, and by an insurrectionary movement at Cavite in 1872. The friar-party declared these to be the natural consequences of "reform," and

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when the government changed, as it soon did, the projects of educational reorganization were speedily nullified. The secularization of St. Joseph's College, which had come to be administered by the Dominicans since the Jesuits' expulsion in 1768, and of St. Thomas' University, ended in 1875 with the formal revocation of decrees that had been held suspended at Manila, and with a strengthening of the Dominicans' control of St. Joseph's and its $1,000,000 or $1,500,000 estate.[1] The Dominicans promised to devote the income of this endowment to courses in medicine and pharmacy, never before taught in the Islands. In a report on the medical college made to the American authorities last year, a German physician of Manila stated that it had no library worth considering, that some text-books dated back to 1845, that no female cadaver had ever been dissected and the anatomy course was a farce, that most graduates never had attended even one case of confinement or seen a laparotomy, and that bacteriology had been introduced only since American occupation and was still taught without microscopes.

Prior to 1863, the curriculum of St. Thomas' University comprised, as the courses leading to the ordinary bachelor's degree, three in Latin grammar, three in philosophy and six in theology, taught in the scholastic manner with the text-books of Spain's friar-convents; under the faculty of Canon Law, there were, besides the foregoing, three courses in the canons and one in ecclesiastical discipline; the faculty of Civil Law (with lay professors) included, besides the same Latin and philosophy, two years of Roman Law, two of Civil Law in its various branches, one of Spanish legislation for the Indies, and forensic practice. The reforming committee appointed by the government in 1863 amplified the scope of this "university" by adding to the curriculum the following subjects, some of which, however, were never taught: mathematics, lineal drawing, chemistry, universal history, Spanish history, geography, Greek, Hebrew, French, English, and bookkeeping. Shortly thereafter an English chemist was hired to coach the new "professor of chemistry," a friar unacquainted with his branch. When the Jesuits began to introduce something

[1] This is the property now in litigation in the Philippine Supreme Court between the Philippine government and the metropolitan see of the Philippines.

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like laboratories into their school at Manila, governmental and popular pressure forced modern science upon St. Thomas'. In 1863 the Rector of St. Thomas' offered to establish "a brief medical course, suited to the limited intelligence of the natives."[1] A short time before a predecessor had said: "Medicine and the natural sciences are materialistic and impious studies." A Filipino student of the sixties, who proposed a thesis on economic reasoning, was gravely warned that political economy was a "science of the devil." And again, in 1901, when young Filipinos began coming to the technical schools of the United States, the Rector of St. Thomas' announced a "course of engineering taught by an English professor," — without laboratory and without mechanical equipment.

Unquestionably there have been some able men connected with St. Thomas', men who have later served their country, their order, or their church with distinction in Europe. The majority of the members of the Dominican, Augustinian, Franciscan, and Recolletan orders in the Philippines seem, from their appearance, manners, and personal habits, to have been recruited from certainly not the best classes of Spain; but there has always been a minority of very intelligent and cultivated men, from good families in Spain, who have generally assumed the leadership in all the activities of the brotherhood. Some of these are charming men personally, though wholly intolerant of modern political, economic, social, or scientific thought. Their very dictatorship among less cultivated brothers contributes to harden their intellectual narrowness and dogmatism. In the address opening St. Thomas' for a new year in June, 1901, a friar-professor, paying his respects to modern science in general, and to English and German anthropology and biology in particular, wiped Darwin, Haeckel, and other such men off the slate with quotations from the Bible and the saints of the Church.

Concerning the capacity of the Filipinos, the view commonly entertained by friar and pro-friar writers is that suggested in the following assertion made by Mr. Stephen Bonsal in the *North American Review* for October, 1902; "Not a single pure-blooded

[1] See Montero y Vidal for this and other references to this period, 1863–1875

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Filipino of the thousands that have graduated [from the Manila colleges] has distinguished himself or left a considerable name in any walk of life." As has been shown, comparatively few pure-blood natives have had the advantages of these schools. But conceding that any number at all have had an opportunity to develop what was in them, the statement quoted seems to point to failure for the new American educational campaign in the Philippines. Is there another side?

José Rizal, the Filipino who was executed at the instigation of the orders in 1896, dealt with this question in a chapter of his novel *El Filibusterismo*. Rizal was pure Tagalog, and got his start in intellectual life from a native priest of Calamba, Laguna province, Luzon. He had a taste of Manila teaching and then went to Spain. Unlike other Filipinos, he soon sought education outside of Latin sources in Europe, studying at Heidelberg, Leipsic, and elsewhere in the eighties. Fresh from contact with the masters of scientific research by the "laboratory method" in Germany, he writes thus of the teaching of physics in St. Thomas' University:

> The walls were entirely bare; not a drawing, nor an engraving, nor even any kind of a *representation* of an instrument of physics. On occasion there would be lowered from heaven an instrumentlet to be shown from afar to the class, like the Holy of Holies to the prostrate faithful: "Look at me, but don't touch me." From time to time, when some complacent professor came, a day of the year was assigned for visiting the mysterious "cabinet" and admiring from afar the enigmatic apparatus arranged inside the cases. Then no one could complain; that day there were seen much brass, much glass, many tubes, disks, wheels, bells, *etc.* And the show stopped there, and the Philippines were not turned upside down. For the rest, the students are convinced that these instruments were not bought for them; merry fools would the friars be! The "cabinet" was made to be shown to foreigners and to high officials from Spain, that, on seeing it, they may nod in approbation, while their guide smiles as if saying: "You have been thinking you were going to find a lot of backward monks, eh? Well, we are at the height of the century; we have a 'cabinet'!"
>
> And the foreigners and high officials, obsequiously entertained, afterward wrote in their voyages or reports: "The Royal and Pontifi-

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cal University of St. Thomas, of Manila, in charge of the illustrious Dominicans, possesses a magnificent cabinet of physics for the instruction of youth . . . There annually take this course some two hundred and fifty students; but, be it through the apathy, indolence, scanty capacity of the natives, or through any other cause whatsoever, ethnological or unperceivable, up to date there has not developed a Lavoisier, a Secchi, or a Tyndall, even in miniature, from the Philippine-Malay race !!!"

As might be expected, educational advantages for the weaker sex in the Philippines have been of the slightest. Several religious sisterhoods were early on the scene after 1565, and their convent schools, with a limited curriculum of music and grammar-school studies, were always resorted to by the girls of the well-to-do. The only other schools besides those of the villages, to which their sex was ever admitted, were the government normal schools established in 1863.

I have already referred to a change of sentiment in respect to he natives after the "heroic age" of missionary work reached its height. We have seen how Father Herrera, in his plea to Philip II, praised the docile nature of the Filipinos and their fitness for Christianity. A century and a half later, in 1731, the Augustinian, Tomás Ortiz, charges the natives with such grossness and perverse immorality as would entirely belie his brethren's claims to having Christianized them. Murillo Velarde, a Jesuit historian, writing in 1749 (in different vein from his brother-Jesuit, Father Delgado), calls the Filipino "the lowest grade of rational animal," and catalogues twenty-one native traits, each a vice or fault. Such quotations might be multiplied in the nineteenth century, especially after 1863. Typical are the remarks of Gabriel Casanova, a prominent Franciscan, in a letter to ex-minister Moret in 1897, when the latter was proposing Philippine reforms in the Cortes. Referring to some verses representing the Filipino as a mere animal, which were recited by a friar in literary exercises at St. Thomas' University, Father Casanova says:

They brilliantly set forth the savage instincts and bestial inclinations of these faithful imitators of apes. . . . As neither Spain nor the

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friars can change the ethnological character of the race, it will always be idle to desire to apply to them the same laws as to us. . . . The only liberty the Indians want is the liberty of savages. Leave them to their fighting-cocks and their indolence, and they will thank you more than if you load them down with old and new rights.

The Dominican organ of Manila not infrequently to-day refers to the people as "*chongos*" (Tagalog for "monkeys"). The present attitude of the orders in the Islands is reflected also in the comments of Father Zamora (whose recent book in defense of the friars has been referred to above) on American policy:

> In the rebellions of long ago, the authorities did not offer rewards or lucrative posts to the leaders in order to pacify the country; they killed them in fight or on the gallows. To quiet the masses, and keep them submissive, they employed the friars. . . . Will the North Americans ever be convinced they are on the wrong tack? Those same conspicuous personages of the revolution will, when least it is looked for, let their savage instincts show forth under the military uniform, and at best the breech-clout will appear from under the toga of magistrate of the supreme court.

His contention is that, if we "do not propose to exterminate the native stock," we should send the friars back to their parishes, banish the revolutionary leaders, and put a restraining hand on the native priests. He insists that no other organization is so influential in the country as the religious corporations; "the peace of the country is a question of life or death for them. All their resources and interests, consisting in rural and urban property, with the returns from which they maintain their colleges and seminaries in Spain, are seriously involved because of the revolution."

The Philippines have an area of 75,000,000 acres, in round numbers, including little islands that are mere rocks, mountainous country, dense jungles, *etc.* The most liberal estimate would not class two-thirds of this land as cultivable, in the most remote future, and the land actually under cultivation is about 6,000,000 acres.[1] The landed property of Augustinians, Dominicans, and

[1] Cavada, Statistics of the Philippines, 1876, gives 2,280,421 hectares (5,700,000 acres) under cultivation, and approximately 52,000,000 acres as tropical forest.

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Recolletans[1] amounts to about 410,000 acres. Thus the friars hold over one-fifteenth of the land thus far redeemed for agriculture, and about one one-hundredth of all that, under the most optimistic view, will ever be cultivated. Most of their land lies in Cavite, Batangas, Laguna, Rizal, and Bulacan, the thickly settled provinces around Manila, where the Malays had progressed furthest in government, agriculture, and trade when Legaspi came.

The value of these landed estates has been estimated variously at from $4,000,000 to $7,000,000; this is the property now under negotiation at Manila. The friars' city property is estimated as worth from $6,000,000 up. It includes the large monasteries and their churches and the college buildings in the walled part of Manila; colleges and monasteries in Cebu, Iloilo, Nueva Caceres, Dagupan, Vigan, and Tuguegarao; the Dominicans' printing establishment (including the daily paper *Libertas*, which has been so abusive of American government, and the editor of which was last year convicted of criminally libeling General J. Franklin Bell); and the claim of the church hierarchy and of the orders to various public charitable or quasi-charitable institutions, such as the *Obras Pias*,[2] *Monte de Piedad* and *Hospital de San Juan de Dios*, with their endowments and possessions. The Dominicans, most extensive holders of urban property, own all one side of a city block in the most crowded business section of Manila, and have two of the three banks as tenants, while they also own a majority of stock in the Spanish-Filipino Bank, which has steered a rather erratic and uncertain course. The last big hemp corner attempted during the insurrection was financed by friar money.

In addition to tithes of various sorts and fees for weddings, burials, *etc.*,[3] the friars received, as parish priests, annual salaries from the Spanish government, ranging from $400 to $1,500.

[1] The Franciscans cannot, by their rules, hold landed estates.

[2] In 1880 the *Obras Pias* had at interest $2,500,000 Mexican silver, of which the Franciscan order owned $500,840, the Dominican $205,092, the Recolletan $151,055, and the Miter $88,155.

[3] For which, as noted above, a schedule was fixed in 1773, though it was not always regarded.

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These were latterly a charge upon the Philippine treasury; once the money came from Spain or Mexico, and formed part of the westward cargoes of the old "*naos*" which made annual voyages between Acapulco and Manila until 1815. Then Manila was the "Pearl of the Orient," and fabulous tales are recorded of these voyages. The post of "General-on-board" (a political job) at times netted $350,000 a voyage. Fortunes were made out of the allotments of space for the return cargoes of spices, pearls and silks. The monastic corporations had their proportion of this space to let, along with the governor-general and other officials.

The question of morality among the friars is not here touched. There has doubtless been much exaggeration on this score. Most important of all, however, the anti-friar sentiment in the Islands has quite generally been based on other grounds than this. Whether or not this attitude is to be regarded as shedding light on the moral status in the Islands to-day, may here be passed over.

JAMES A. LEROY.

DURANGO, MEXICO.

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## THE CAMBRIDGE MODERN HISTORY.

CO-OPERATION among historical scholars for the purpose of covering large fields is of course by no means a new thing. The *Magdeburg Centuries*, which were issued shortly after Luther's death, furnish an early and striking example of co-operation. Many of the achievements of the scholarly Benedictines of St. Maur also belonged to this class. It remained, however, for the nineteenth century to develop this plan of work on a large scale. Toward three generations ago the indefatigable Heeren got his *Staatengeschichte* under way. The volumes of this series have been appearing with Teutonic deliberation ever since 1829, and there is no particular reason why, handed down from generation to generation, the enterprise may not go on for all time.

With a broader scope and less exclusive attention to political history we have the extensive and well-known set edited by Professor Oncken: *Allgemeine Geschichte in einzelnen Darstellungen.*[1] About the same time there appeared another and shorter *Allgemeine Weltgeschichte*, published by the same firm, in which the whole period from the ancient Egyptians to the Franco-Prussian war was covered by six writers — Justi, Hertzberg, Pflugk-Harttung, Prutz, Philippson and Flathe. This series has been translated into English, with some omissions and amplifications, under the auspices of Professor J. H. Wright of Harvard in nineteen volumes, under the general title, *History of all Nations.*[2] While the present edition is too costly for any except the opulent book fancier, it is to be hoped that the translation will be issued in a cheaper form, since it will make an important addition to the available treatises in English. The twentieth volume, which has been added as a supplement to the German series, is a very careful study of the last twenty years, by Professor Charles M. Andrews of Bryn Mawr.

The *Histoire Générale*,[3] edited by Lavisse and Rambaud, covering the period since the breakup of the Roman Empire in the West, has proved very useful by reason of its clear and vigorous statement and the practical bibliographies given at the ends of the chapters.

In marked contrast to the comparatively conventional treatment of

[1] Grote'sche Verlagsbuchhandlung, Berlin, 48 vols., 1878–1892.

[2] Lea Brothers, Phila. [3] Colin, Paris, 12 vols., 1893–1901.



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the preceding works, Helmolt's *Weltgeschichte*[1] serves by a venturesome, not to say paradoxical, neglect of precedent, to emphasize a certain smug narrowness and arrogance which has afflicted most so-called *Weltgeschichte*. Geographical and ethnological motives lead the editor to devote his first volume to America, especially to its ancient inhabitants. The reader is then carried by easy stages across the Pacific and in the second volume is landed at Kyoto, whence he makes his way through Siberia and China down to the Malay Archipelago; thence through southern and western Asia and Africa to Greece, where he finds himself at the opening of Volume IV. Here at last he joins the well-beaten track. It would require too much space to explain and properly consider the ingenious arguments adduced by Helmolt in defense of his plan, and supported by the distinguished scholars who are co-operating with him. His novel enterprise when completed may properly be the subject of a separate paper.

Among co-operative works relating to the history of a single nation, the most conspicuous are perhaps the *Bibliothek Deutscher Geschichte*,[2] now in course of publication, and the new and admirable *Histoire de France*,[3] edited by Lavisse, of which the first installments have appeared. There is also a new and beautifully illustrated edition of Traill's *Social England* in course of publication. And as we all know, American scholars have recently been organized with a view of covering more adequately than ever before the history of our own country.

As an illustration of the advantages and disadvantages of co-operative historical writing, we cannot perhaps do better than to take the first volume[4] of the great *Cambridge Modern History*, which has long been awaited with interest by students in this field.

The volume in hand, entitled *The Renaissance*, is the first of twelve stout tomes whose purpose is to convey "in the way most useful to the greatest number of readers, the fulness of knowledge in the field of modern history which the nineteenth century has bequeathed to its

[1] Bibliographische Institut, Leipzig and Vienna, Vols I–IV, VII, 1899–. The American edition, with an introduction by Mr. James Bryce, is published by Dodd, Mead & Co, 1902–.

[2] Edited by H. v. Zwiedineck-Südenhorst. Stuttgart, J. G. Cotta, nachf., 1889–. Sixteen volumes have appeared.

[3] Paris, *Hachette*, 1900–. Five half volumes have been issued.

[4] The Cambridge Modern History, planned by the late Lord Acton, edited by A. W. Ward, G. W. Prothero, and Stanley Leathes: Vol. I, The Renaissance, New York, The Macmillan Company, 1902. xxxii, 807 pp. Vol. VII The United States, has also recently appeared.

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successor." Lord Acton, to whom the general plan of this highly important historical enterprise is due, was scarcely known to the general public, for he wrote but little. He enjoyed, however, an almost pre-eminent position among English scholars on account of his vast erudition. Although a faithful adherent of the Church of Rome, he was called to the University of Cambridge as Professor of Modern History in 1895 and occupied that position at the time of his death last year.

The spirit and method of his great co-operative work, to which he himself contributes not even a preface, are cogently explained by the editors in a brief introduction. This is supplemented by an admirable introductory note from the pen of Bishop Creighton, whose death was almost coincident with that of Lord Acton. The magnitude of the proposed work — which if distributed in convenient octavo would fill twenty-five or thirty volumes — and the highly dignified auspices under which it appears justify a somewhat careful consideration of the attitude of the editors toward their task and of the means they have adopted to meet the serious inherent difficulties which confronted them.

Of these difficulties the chief are the following: First, the stupendous amount of historical evidence to be examined and the overwhelming number of discussions of special points to be considered. Whole libraries can be collected relating to a single subject or person, such as Petrarch, Columbus, Luther, Louis XIV, Napoleon, Humanism, the work of the Jesuits, the fate of the Huguenots, or the industrial revolution in England. Only by distributing so vast a theme as the history of modern Europe among a large and varied body of scholars is it possible to base the text upon the sources and to disregard the highly uncertain conclusions of conventional history upon which the unassisted historical writer must always rely to a great extent when covering a long period. By co-operation only can a work like that sketched out by Lord Acton be brought abreast, at least for the moment, of the ever rapidly advancing vanguard of modern investigation. This has been generally recognized, and all the recent comprehensive — and even national — histories are the work of many hands.

Yet co-operation, although indispensable, has its serious drawbacks, some of which appear to be inherent. Only a supernaturally discreet and infinitely patient editor, commanding despotically a learned and eloquent but highly adaptable and wholly subservient army of devoted specialists, might hope to meet the perplexities of the situation. In practice, as every editor knows, both he and those to whom he must look for aid are usually fully occupied by the exigencies of

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a successful career before they undertake to co-operate. When, after all the consequent delays, interminable correspondence, hasty writing under pressure and makeshifts due to the untimely demise or nervous prostration of contributors, the material is in the editor's hands, it is obvious that it cannot be arranged into a consistent and consequent narrative, likely to meet the needs of the public. Nor is this the fault of the contributors; for the greater their insight and originality the more certain are they to differ from one another in their attitude toward the past. As Bishop Creighton says:

> The point of view of any individual writer influences not only his judgment of what he presents, but his principle of selection; and such is the wealth of matter with which the writer of modern history has to deal, that selection is imperative. In the vast and diversified area of modern history, the point of view determines the whole nature of the record, or else the whole work sinks to the level of a mass of details uninformed by any luminous idea.

Formerly when the effective presentation of the more conspicuous outward events was the historian's ideal, co-operation would have been comparatively easy. We are, however, no longer satisfied with this simple treatment of the past. Conditions, processes of transition and some attempt to define and estimate the complex forces concerned, — these are now considered the most essential part of the historian's duty. Furthermore, our interests are constantly widening. Each generation has new questions to put to the past, and brushes aside much which formed the bulk of the older works. To-day we grow impatient over fifty pages devoted to the ceremonies accompanying the abdication of Emperor Charles V, and ask how Brussels managed its schools or disposed of its sewage.

With the whole range of human motive and achievement from which to choose, a large group of writers are sure to diverge from one another almost hopelessly in the selection of their material and the method of dealing with it. Doubtless an editor might be imagined who, holding the blue pencil in a masterful grasp, should reject, supplement, and re-write regardless of the cherished idiosyncrasies of his often highly sensitive and self-complacent collaborators. In this way the crude ore which each supplied could be purified, fused, and made to flow into the mold of coherent design. If such an experiment has ever been tried, there are obvious reasons for concluding that it has failed.

Unity and coherence in the sense in which we find them in Gibbon

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or Gardiner are out of the question in a co-operative work, which necessarily reduces itself to a series of monographs upon cognate subjects. One who attempts to edit a co-operative history must, then, confine himself to sketching out a general plan, apportioning the various parts of the work and laying down a few rules which he cannot hope to see rigorously observed.

Granting the accuracy and literary ability of the various writers whom an editor selects, everything really depends upon the choice and arrangement of the topics he assigns to each. The nature and extent of the subject falling to each contributor varies greatly in practice. Oncken's plan provided for nothing more than a series of complete treatises, sometimes in two or three thick volumes, upon long, important periods. Such is the plan also of *The History of All Nations*.

Traill, on the other hand, patches together the *Social History of England* by means of a series of encyclopædia articles, each by a specialist in the particular field. The *Histoire Générale* follows a middle course. Each volume is devoted to a specified period, "Renaissance and Reform," "The Wars of Religion," "Louis XIV," "The Eighteenth Century." Within the given period each country is the subject of a special article by its particular writer. A few chapters are added upon the Arts, the Literature, the Catholic Church, Economic Changes, *etc.*

Lord Acton and his associates have hit upon an expedient still happier than any of those mentioned above. The historical material is organized about some more or less definite person or conception. Each volume will deal with a subject rather than a period, — the Renaissance, the Reformation, the United States, Napoleon, *etc.*, — and the events in the several European countries will be reviewed not for their own sakes, but "in reference and subordination to a higher process, and according to the time and degree in which they influenced the common fortunes of mankind." In short, the chronological and national gives way to a consistent topical treatment.

The success of this method of treatment, which is of course not entirely new, depends largely upon the skill shown in apportioning the work in detail. To judge by the volume in hand, Lord Acton and his associates have succeeded in availing themselves of most of the advantages of co-operation while avoiding its worst drawbacks. The volume opens with two chapters on The Age of Discovery and The New World by the well-known specialist in that field, E. J. Payne. Mr. Bury deals with The Ottoman Conquest. The chapters on Italy well illustrate the spirit of the work. After a rather perfunctory review of the political events in the early sixteenth century, we have a

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chapter on Savonarola, by Mr. Armstrong; on Machiavelli, by Mr. Burd; on Rome and the Temporal Power, by Mr. Garnett; and on Venice, by Horatio Brown. After more conventional chapters on Germany, Hungary and the Slavonian kingdoms, Spain, France, the Netherlands and England, Professor Cunningham discusses the general economic changes; Sir Richard C. Jebb, the Classical Renaissance; Mr. James, the Christian Renaissance; Dr. Barry, Catholic Europe, *etc.* The work closes with a remarkable chapter by Mr. Henry C. Lea, on The Eve of the Reformation.

The subjects are so arranged that each writer is freed from any other responsibility than that of setting forth the topic intrusted to him. His impressions are not derived from previous conceptions of necessary relations between what he has studied and what went before or after; they are formed directly from the results of his own labors. The outcome is that, without any radical editorial readjustment of the contributions, the reader has before him the most important matters and can be safely left to form his own conclusions and supply the connecting links. "He is free from the domination of one intelligence — a domination which has its dangers, however great that intelligence may be — striving to express the multifarious experience of mankind in categories of its own creation."

One hundred pages at the close of the volume are devoted to bibliography. A long list of works is given relating to each of the chapters. No attempt is made, however, to distinguish between the important and the unimportant. It is hard to see for whom such lists are intended. They are practically of no value to the class for whom we may assume the book is primarily designed. A brief critical account of the main sources, with some suggestions of the best collateral reading, would have been far more useful. Everyone will, however, approve of the Index which accompanies each volume. In similar enterprises this useful feature has been relegated to the closing volume, which appeared perhaps long years after the earlier portions of the work.

While the method adopted by Lord Acton and his collaborators is excellent and in many ways original, some readers may be inclined to quarrel with the point of view of most of the contributors. The core of the work is unmistakably old-fashioned political history. Even in a volume on the Renaissance no place has been found for any treatment of art, and but little attention is given to literature. The editors briefly apologize for this omission, urging limitations of space as their excuse for the omission. They also venture the aphorism that "politics, economics, and social life must remain the chief con-

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cern of history; art and literature, except in their direct bearing on these subjects, are best treated in separate and special works; nor indeed is this direct influence so great as is frequently supposed." This may be true; but it will not serve to reconcile the reader to the dreary recapitulations of the Italian wars and similar unprofitable episodes. It would have been a miracle indeed, had the editors been able to maintain consistently the high standard set up by Mr. Payne's introductory chapters and those contributed by Professor Cunningham and Mr. Lea.

JAMES HARVEY ROBINSON.

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# REVIEWS.

*The New Empire.* By BROOKS ADAMS. New York, The Macmillan Company, 1902. — xxxvi, 243 pp.

If college professors of history are as unimaginative and uncreative as Mr. Adams describes them, they should be compelled to read this volume. Nothing could be better calculated to arouse them from that dulling contemplation of facts which he deplores, than the stimulating explanation of the world's history which is presented in the short compass of this study. Unfortunately Mr. Adams antagonizes the professors at the outset by the statement in his introduction, that "history as taught in our colleges discourages all attempts to generalize." There will be those among the *genus infelix professorum* who will suspect that the other generalizations in the essay are as hasty as this introductory one, and who will therefore withdraw at once from Mr. Adams's sphere of influence. The truth is that there are some teachers of history who do not regard facts as sacred, nor their arrest and detention in mental confinement as very praiseworthy achievements, unless they can be set to work at the captor's will. Things are really fairly hopeful in our colleges after all. At least a great deal more emphasis is put upon the value of finding the right set of facts to present to students to-day than was the case when the teacher merely followed the second-rate moralizing of a second-rate text-book. But this is not the place to apologize for the professors. Mr. Adams's reference to history teaching is really quite incidental, and should not distract attention from the book itself. It is a book which every victim of facts should read.

The subject of the *New Empire* is nothing less than all history. "It is an attempt to deal, by inductive methods, with the consolidation and dissolution of those administrative masses which we call empires." In other words, it is an attempt to discover the laws of the evolution of society and their working. It is not intended as a final explanation, but it is put forth as purely tentative, and is designed rather as a suggestive essay than as a comprehensive survey. This statement of the author we accept as perfectly sincere, and judged in that light at least, the *New Empire* attains the end for which it was written. For while the tentative character of the essay is rather to be deduced from the occasionally careless grouping of facts than from any hesitation in stating conclusions, the resulting generalizations themselves are not more suggestive than is the whole conception of the book. We have



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long been familiar with the division of human history into such groupings as stone age, bronze age, or iron age. But it was surely a work of genius to carry that thought into a systematic study of different civilized societies and to find the explanation of their relations not merely in economic conditions, but almost solely in one sub-division of their economic environment. As Mr. Adams presents it, the basis of the world's history is no longer soil, food, climate, or general aspect of nature. It is metallurgy. The geographic distribution of metals underlies the rise and fall of world empires, from the dawn of Egypt to the present hour. This is an idea which seems so self-evident when it is once pointed out to a reader, that he wonders why it has not been discovered before by those whose perspective in history is not warped by close observation. Our equipment in society, according to Mr. Adams, is made up of food and of implements in the widest sense of that word. Buckle was wrong in considering soil and food to have been the motive power in calling out the great movements of humanity. Implements of labor, of commerce or of war determine prices and the distribution of wealth. Food itself is as dependent upon them as upon the possession of fertile soil. The full scope of Mr. Adams's theory does not appear at first. He starts with the familiar thesis that commerce is at the root of progress and the cause of war.

> As communications improve, and markets broaden, roads stretch out across continents and join oceans; then the empires traversed by such highways cohere in economic systems, since they have a common interest to resist the diversion of their traffic. Sooner or later, however, parallel routes between the same termini are opened, competition between the systems acquires intensity, and economic competition in its intensest form is war [p. 2].

But commerce itself has had its main incentive, Mr. Adams finds, in the smelting of metals.

> Approached from this standpoint, mineralogy and geography elucidate history; for the one helps to explain the forces which have moved the seat of empire, the other the obstacles which have fixed its course by determining the path of least resistance.

According to Mr. Adams, both Egypt and Chaldea rose to fortune through successful speculation made by the Egyptians in Arabian copper at the beginning of the fourth dynasty (p. 5). Sneferu, the first Pharaoh who regularly mined the Sinai copper, was also the first to build a pyramid. Consequently Egyptian civilization was at once galvanized into artistic, mathematical and scientific life by the copper of

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Sinai! The history of ancient Asia does not center about the Euphrates, but in that mysterious city, Bactra, which "was hoary with age when Nineveh and Babylon were born" (*sic*). In the untrodden paths which lead to this central point of our hypothesis, it is unfortunate that the author has not another guide to take us through the Zagros mountains than "Ninus, the founder of Babylon!" The confusion apparent in these sentences makes one wish for a specific reference to an authority for the age as well as the size of Bactra. But, given Bactra, Mr. Adams disentangles the history of the Euphrates region, in a way undreamed of by mere historians. Ur, in Chaldea, was on the camel track from India to the Sinai copper mines and Egypt. Babylon, farther up, was on the caravan route from Bactra to Phœnician ores and Crete. Nineveh was on a more direct line from Bactra to Asia Minor and the golden sands of Midas. Hence the changing empires of Mesopotamia, strung like puppets on wires that radiate from Bactra!

Assyria's policy should have been to get through to the Black Sea, but "it was the difficulty of Armenia that ruined the Assyrian empire," and "the fate of Asia was not so much decided at Salamis as at Van," where the Assyrians were repulsed from the town that guarded the road to the Euxine. "Then Assyria began to decline; and during the season of her decay, the Greeks gained strength to resist the Persian onset when the storm broke, three hundred years later."

But the influence of the Bactrian trade still ruled the world. It was the mastery of the Black Sea route which was the great prize contended for by the Greek and the Asiatic from the siege of Troy until the day of Alexander. "The legend of the Argonauts proves the danger which attended an attempt to enter the Propontis, and leads to the inference that Troy must have been an outpost of the Assyrian-Phœnician combination" (pp. 16, 20). The fight for Troy was therefore a fight for the Bactrian trade that came by the Volga and the Don. Darius's invasion of Russia was for the same purpose, — "an expedition only to be accounted for on the theory that he intended to cut off the Greek cities on the northern coast of the Euxine from the interior." The Black Sea trade also explains Greek colonizing in the west: Greece must find a market for her importations; "accordingly" she founded Magna Græcia! It is unfortunate that at this juncture Mr. Adams should have given the reader a glimpse of the terrors of that same Black Sea, with its fogs and tempests; for it suggests that Assyria perhaps might have got along without the route to Trebizond, if other evils had not befallen her. She had cleared the path to Aradus and

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Tyre on the Mediterranean, where there was a sea-going race that had no match upon the stormy Euxine. If the Black Sea route was responsible for so much of our history, why did the Phœnicians not develop it? According to this interpretation, should we not rather say that the fate of Asia was sealed not at Salamis or at Van, but on the fields of Troy?

The Greco-Persian war is seen in this connection to be the inevitable conflict of two systems, and Xerxes a Philip II. But the commercial eminence of Greece passed like that of Phœnicia, while

> Macedon retained her vigor, largely because she possessed richer mines than Attica. . . . Alexander's problem was to consolidate the [old] avenues of communication, and his march was the vast triangle from Babylon to Bactra and India. . . . Nothing can be more fatuous than to regard the campaigns of soldiers like Alexander, Cæsar, or Jenghiz Khan as the result of ambition or caprice; for the soldier is a natural force, like the flood or the whirlwind. He breaks down obstructions otherwise insuperable. Alexander's battles were but an incident in a process which only ends with Actium.

The rise of Rome Mr. Adams explains as due to the mines of Spain opening up the western trade. Rome fell because these mines "proved inadequate to meet the demands upon them" (p. 87). "There was no barbarian conquest. There was a resolution of an economic consolidation into its elements" (p. 43). It is hardly fair to state Mr. Adams's theory so baldly; for he does not mean it even as he states it himself. The exhaustion of the Spanish mines would have meant little, as he implies himself, if the Romans had learned to rely upon industries instead of plunder as the basis of their economy.

The reconstruction of later European history suggested in the *New Empire* is even more startling than that of the ancient world. Passing by the Carolingian empire — into which Mr. Adams injects so much of his theory as to make it one of the weakest points of the book — we come upon the recovery from the dark age. This in the strictest sense is a study in metallurgy, and Goslar, among the Harz silver mines, is its center. These mines "probably" furnished Henry the Fowler the means to garrison the frontiers. "The Harz formed the heart of Henry's new kingdom. He turned the clump of hills into a citadel. After he had done so, modern civilization dawned." The great work of Otto I was to strengthen the line of the Elbe and keep the mines going. Accordingly, Augsburg, Nuremburg, and Leipsic sprang into existence, and Venice became a center for trade! The market

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shifted from Constantinople and Kieff to Germany and Novgorod. The rise of the fairs of Champagne in the West was exactly parallel with the decline of Constantinople in the East. A little later it was the mines of the Harz that prevented ocean commerce from wrecking central Europe as it wrecked central Asia. Jenghiz Khan was the agent that cleared out the old economic field, but the Mongol invasions broke in vain against Novgorod and the line of the Elbe, and were turned back by the new Egypt that prospered on Indian trade in the marts of Cairo and Alexandria. Mr. Adams's case would be stronger here if he had not mentioned the reign of Saladin, the conqueror of Egypt, as a proof of Egypt's greatness, just as his treatment of German history suffers by an apology for the barons who "protected" commerce.

But metal was failing, and the great drain of coin to Rome led to very serious results. The discovery of America, it would seem, came a little too late. The rise and fall of Spain is readily explained; as for Germany, it was "*das Zeitalter der Fugger*," and of their creature Charles V. Heavy taxation caused the revolt of the Netherlands. And then came England with its command of the sea. But the English themselves, by inventing the locomotive, made possible again a great land empire, and the United States has already surpassed the mother country.

The application of such a theory to modern history is no small task, but Mr. Adams covers the whole field down to the present hour. The Eastern question receives a suggestive treatment, — based on the search for metals. The formation of the United States steel trust thus looms up as one of the most momentous facts in all history. It was due to it that China is to-day threatened by European armies, and Japan and Russia are making ready for war. Through all the intricacies of contemporary history, Mr. Adams traces his theory with unerring step — but his theory alone. He here adduces statistics to prove his contentions, and the reader feels that he is dealing less with a theory of probabilities than in the earlier portions of the work. It is too bad that our faith in the last chapter should be shaken by such spurious history as that which attributed the fall of the Carolingian empire to taxation of the woolen industry! That lack of flexibility which Mr. Adams places along with economic reasons as a cause of the fall of nations, is also an evil in the historian who rigidly maintains, as universally applicable, a formula that will explain certain phenomena.

In spite of its incidental defects, which are apparent enough, Mr. Adams has written a book that should be read by everyone interested

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in the vastest of all problems. If he would transform his essay into a real history, embodying not merely those facts which fit into his theory, but also the modifications and exceptions, his book would be less popular perhaps, but more convincing.

J. T. SHOTWELL.

COLUMBIA UNIVERSITY.

*The American Republic and Its Government.* — v, 410 pp. *Political Parties and Party Principles in the United States.* — ix, 314 pp. By JAMES ALBERT WOODBURN. New York, G. P. Putnam's Sons, 1903.

These companion volumes on the American system of government are a useful addition to the literature of that subject. Intended as text-books or manuals for students' reference, they make no pretensions to exhaustive study of the facts or the philosophy of American politics. The strictest tests of scientific criticism would therefore be inapplicable to them.

*The American Republic* is a treatise designed, as the author indicates, to fill a gap between the ordinary high-school text-book on civil government and Bryce's *American Commonwealth.* Viewed in this light, the volume is seen to possess many excellent features. Professor Woodburn's treatment of the subject is concise, clear, and in the main attractive. Of greatest value and interest are the chapters on the President and on Congress, which, in fact, constitute the larger part of the work.

The most serious faults of the book are a lack of proper proportion or balance and a frequent inaccuracy of statement. In a volume of 410 pages, the federal judiciary receives only 25 pages, while to the highly important subject of state government a brief chapter of 20 pages is all that is given. Fifty pages are devoted to the principles of the Fathers of the Republic, and nothing at all is said about municipal government.

The working value of the book is lowered by the presence of many distressing inaccuracies. Thus the statement (p. 19) that the Fathers did not adhere to the doctrine of the social compact requires qualification to the limit of negation. Farther on, the dates for the meeting of Presidential electors and the count of the electoral votes are incorrectly stated as the first Monday and the first Wednesday in January and February respectively (p. 118). The Secretary of Agriculture should not be included in the line of Presidential succession (p. 142);

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for his department was created after the Succession Law was passed. The number and salaries of the federal judges are incorrectly given (p. 319). The constitution of Connecticut to which reference is made was rejected by the people and did not, as is implied (p. 349), become law. The Danish West Indies are not yet a part of the United States as stated (p. 378). Four States instead of two accord full rights of suffrage to women (p. 351). The governor lacks the veto power in three States, not four, as given on page 353. The number of members in the upper house of the Delaware legislature is no longer nine since the adoption of the Constitution of 1897 (p. 349). The salary of the governor of Michigan is now $4,000, instead of $1,000 as indicated on page 352. The form of government imputed to the Philippines (p. 376) is assuredly not the one provided for in the Act of 1902, under which they are actually governed.

The volume on *Political Parties* is designed to arouse more general interest in the study of this important part of our political system. Although the place of the political party in a democracy is hardly less important than that of representative government, no attempt was made until the last decade to analyze, classify, and interpret the great mass of facts respecting it. Mr. Bryce, in the second volume of his *American Commonwealth*, presented the first systematic discussion of the party system, and this admirable exposition has been followed in very recent times by the work of Ostrogorski on *Democracy and the Organization of Political Parties*. To other special works on the subject by such authorities as Goodnow, Macy, and Dallinger, the volume by Professor Woodburn is a welcome addition. His treatise is indeed the first attempt made by an American to give a scientific account of the organization and activities of political parties in the United States.

One-half of the book is occupied by a history of party platforms and campaigns, and the remaining part by a study of political organization and methods of action. A great variety of interesting and valuable material is clearly and attractively presented by the author, but there is, on the whole, little that savors of original and exhaustive research. The discussion is free from the pessimism so unpleasantly characteristic of Ostrogorski's work, although none of the unpleasant facts regarding political parties are glossed over, and the author fully recognizes the dangers that lurk within the party system as developed in the United States.

Excellent as the volume is in many respects, it is defective in some others. The history of party principles is developed at the expense of the history of party machinery and organization. In a system where

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machinery plays so large a part, the history and description of the machinery have an equal importance, and should receive equal attention, with the history of party principles. There are many omissions of important matter, not all of which can be justified by the limitations of space. For example, the subject of primary reform is very scantily treated, in view of the great mass of primary legislation since 1866. Description and explanation of systems such as are found in the large cities of this country would have been a very valuable addition to the book. The attitude of the courts toward primary legislation and toward party organization might have been advantageously included in the discussion.

A few errors of statement have crept into this volume, but these are not of such a character as to interfere in any way with the usefulness of the work. On the whole, Professor Woodburn's discussion of political parties, although by no means an exhaustive treatment of the subject, will serve well the author's purpose of arousing greater interest in the study of political organization.

C. E. MERRIAM.

THE UNIVERSITY OF CHICAGO.

*The Negro in Africa and America.* By JOSEPH ALEXANDER TILLINGHAST. Publications of the American Economic Association, 1902. — 231 pp.

Mr. Tillinghast presents here a social history of the American Negro from the time of his life in Africa to the present. His thesis is that the Negroes in West Africa were in a low state of savagery, with low forms of social, economic and political organization; that the slave trade and slavery were a species of natural selection in which "the race probably made a gain," the American Negroes, through inter-tribal amalgamation, becoming "rapidly superior to their West African contemporaries;" that emancipation, by isolating them in groups by themselves, has taken away the contact with the whites which makes for uplift; and that consequently the Negro is "slowly but surely tending to revert" toward savagery or extinction.

The work calls forth two preliminary criticisms, the first favorable. Undoubtedly Mr. Tillinghast has made an excellent attempt to study the vital connection between the Negro in his own home and the Negro in his foster land. The fact that the history of the slave did not begin with his landing in America is one that must be more and more impressed on students of the problem of the races, and such students

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owe a debt to Mr. Tillinghast for his emphasis of this fact. On the other hand, it is unfortunate that the author succumbed to the temptation common to nearly all students of the Negro to "settle" the problem finally. It detracts not a little from our faith in the scientific accuracy of the writer to see an interesting social study of African customs hurry into conclusions as to the present condition of the Negro which are in flat contradiction to the best available evidence; it is not true that the younger generation of Negroes is going to the devil, that family life among the Negroes is growing less chaste, and that crime is threatening wholesale race deterioration. That crime has increased among Negroes is true; but so has it increased among whites. On the other hand there is abundant evidence that the American Negro, despite an unusual handicap, is steadily progressing in wealth, knowledge, and morality.

All this, however, is minor criticism; for the concluding part of the study is really foreign to the scheme of the book and is quite evidently an unfortunate attempt to reclothe an old and discredited thesis.

The really valuable part of the book is the description of African customs and the comparison with American slavery. Here Mr. Tillinghast's work is painstaking and interesting, but it is no unkindness to say that he has not had conspicuous success in working out the study. The correct study of savages and barbarous people to-day calls for such an unusual mental equipment that most men hesitate to attempt it. In the first place, the student must come to his work with a knowledge of race development and primitive social conditions the world over, for purposes of intelligent comparison; again, since most races have passed out of their social childhood, such a knowledge is difficult to gain and calls for broad historic study to aid in interpreting the reports from the past; and finally, the comparing reports of present and past conditions — for instance, those of a Tacitus and a Du Chaillu — calls for great judgment, keenness of insight and freedom from preconceptions. One is not then altogether unprepared to find in this first essay of a graduate student, an almost total lack of this necessary equipment. It strikes the reader from the first that Mr. Tillinghast has no broad knowledge of the phenomena of savage life, and his judgments of savage conditions in Africa have continually in mind a comparison with the present situation of civilized nations rather than with the condition of other savages. Why else are we told that Africans are "controlled by present impulses" and make "no provision for the future"? Is this peculiar to African savages? Or again, he says: "Clearly the sexual purity among the Guinea natives does not rest

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upon any regard of chastity as such, but merely upon property ownership" (of wives) — a thing perfectly obvious in any race of the same grade. And finally we are brought to this contrast: "Such was life along the Guinea coast when Shakespeare was producing his dramas." Pray what was life in German forests when *Œdipus Tyrannus* was being written?

It would be quite admissible for a student to do a piece of research in some narrow sociological or historic line without the larger study and equipment referred to. But in such case he must particularly beware of coming to universal conclusions on so narrow a basis of induction. A failure in this respect brings merited criticism upon seminary methods of research work. This Mr. Tillinghast at times seems to recognize, and he warns his readers in some passages against the pitfalls of judging native customs in the light of modern ideas, and like mistakes. Despite this, however, he does not himself by any means escape, and the difficulty seems to lie in the fact that he has a thesis to prove, and that ever and again this thesis seems to him of more importance than his larger scientific aim, and tempts him beyond his legitimate limits. Consequently, in the second part of his work, we have an excellent picture of the better side of slavery — but it is far too excellent to be wholly true.

The book, then, represents a modern view of the Negro and slavery as seen by the son of a slaveholder, and by one who, perhaps naturally, feels that there was much of good in slavery and much of bad in the Negro; — as such the work deserves reading. Its claims as a scientific study are less pressing, but nevertheless of some weight.

W. E. Burghardt Du Bois.

Atlanta University.

*Municipal Public Works*, their Inception, Construction and Management. By S. Whinery, Civil Engineer. New York, The Macmillan Co.; London, Macmillan & Co., Ltd., 1903. — xiv, 241 pp.

Mr. Whinery very properly conceives of municipal public works as embracing not merely those undertakings which, like street improvements, must necessarily be under the direct management of the city government, but also those which, while capable of management by private corporations, have such a close connection with the city that for their management municipal action of some sort is necessary. He therefore includes among the subjects of which he treats, waterworks,

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gas and electric lighting works and street franchises generally, even where these matters are under private management.

In the portion of the book devoted to the first class of subjects Mr. Whinery calls attention to the significance of public works in their relation to municipal welfare and development, and to the consequent necessity of a proper organization of the public works department of cities and a careful preparation of the plans of all public undertakings. Most of the conclusions which he reaches are as self-evident as the injunctions of the ten commandments. The only excuse for their restatement would seem to be the desire of the author to impress upon his readers, among whom he hopes to include most public-spirited citizens, "that it is both their duty and privilege to take an active interest in municipal government," and to "arouse such an interest in those who have not previously given much attention to the subject." The hortatory purpose of the author would seem to be fulfilled. For he is certainly successful in depicting an ideal state in which municipal public works receive the kind of attention and treatment through which alone this side of city government can be successful. So far as concerns the remedies for existing conditions, which, as Mr. Whinery is perfectly aware, fall far short of his ideal, it must be admitted his success is not so great. In fact, almost the only remedy he proposes for the evils which at the present time attend the management of municipal public works, both those under public and those under private control, is publicity under a system of uniform accounting provided by state law. While this is the only remedy proposed, its importance can, however, hardly be overestimated. For only through its adoption can city government be made responsible. Mr. Whinery's treatment of this subject cannot be too highly praised.

In addition to his general reflections on the necessity of putting good men into the offices having to do with the public works of cities, Mr. Whinery discusses a number of important questions, of which direct *versus* contract work, municipal ownership, guarantees of public work by contractors, and the proper methods of distributing the cost of local improvements among those benefited thereby, deserve special attention. In his treatment of these questions his attitude is rather non-committal than otherwise. He usually contents himself with stating the arguments, together with the facts, if there are any, on both sides of the question, leaving his readers to draw their own conclusions. While this attitude on his part probably renders his book somewhat less attractive than it otherwise would be, at the same time he should be commended rather than blamed for it. For, as he is

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continually pointing out, we have not the facts before us necessary to the formation of a final judgment. For this reason alone Mr. Whinery's book is an argument of great force for the reform which he persistently urges upon his readers: *viz.*, publicity of municipal accounts framed upon a uniform plan. Only when such accounts are accessible can we solve, *e.g.*, the vexed question of municipal ownership; only then can the citizens of a given city determine whether the government of their own city is being conducted wisely and economically; for only then can it be compared with that of other cities. For this reason, if for no other, it is to be hoped that Mr. Whinery's book will reach a wide circle of readers.

F. J. G.

*Jurisprudence, or the Theory of the Law.* By JOHN W. SALMOND, Professor of Law in the University of Adelaide. London, Stevens and Haynes, 1902. — xv, 673 pp.

Professor Salmond may perhaps be classed as belonging to the natural-law school by sentiment and to the analytical by conviction. If, however, he be described as an analytical jurist, it must be added that he is an independent member of the school. Not only does he refuse to view law as made up entirely of commands, but he pronounces the analytical or "imperative" theory defective, "inasmuch as it disregards that ethical element which is an essential constituent of the complete conception." "Law is not right alone, or might alone, but the perfect union of the two." This, however, is merely the "idea" of law. "The established law may be far from corresponding accurately with the true rule of right, nor is its legal validity in any way affected by any such imperfection" (pp. 55–59). The author recognizes "natural rights" (pp. 221, 222), but he does not clearly indicate their nature. He does not answer the question which he puts on page 2, whether "natural law, so-called," is rightly entitled to the name of law, but he suggests an answer by the form of his question, and also by his remark that the books on natural law are "a sufficiently unprofitable form of literature." Finally, since neither natural law nor ethics is included in his list of "legal" sources of the law (p. 103), he apparently relegates them to his alternative category of "historical" sources. He affirms, however, that international law is really law, not merely as a body of rules enforced within each state by its courts of justice, but as a body of rules controlling the relations between states (p. 1). International law has behind it the sanction of physical force:

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"War is the last and most formidable of the sanctions which in the society of nations maintain the law of nations" (p. 14).

The author gives, however, no definition of law which will include all the rules of international law, or all the rules of constitutional law. The only definition which he gives of law is one of "civil law." Here he breaks again with the analytical jurists by the importance which he assigns to judicial decisions: "Civil law," or "law without any qualifying epithet," "consists of the rules recognized and acted on in courts of justice" (pp. 3, 11). After classifying the sources of law as "formal" and "material," and explaining that "a formal source is that from which a rule of law derives its force and validity," and that "the material source supplies the substance of the rule to which the formal source gives the force and nature of law," he declares that there is only one "formal" source of civil law, "namely, the will and the power of the state as manifested in courts of justice" (p. 99). Legislation is placed, alongside of custom, precedent, professional opinion and convention, among the "material" sources of law and in the sub-class of "legal" sources (p. 103). This is to say that, when the legislature lays down a rule, the rule laid down has neither the nature nor the force of law until it is recognized and acted on by a court. This interesting theory, which seems to the reviewer a very defensible theory, at least as regards that part of the law which the courts administer, is certainly not Austinian. On the other hand, the author finds that legislation is supplanting all the other "material" sources of law. In the past, the persistent trend of judicial decision furnished most of the law in the form of judicial custom. To-day, at least in English-speaking countries, single decisions furnish much law in the form of precedents. But "so great is the superiority of legislation over all other methods of legal evolution, that the tendency of advancing civilizationis to acknowledge its exclusive claim, and to discard the other instruments as relics of the infancy of law" (p. 119). Here the author has said more than he means; for, on pages 124 and 125, in insisting that "the whole tendency in modern times is towards . . . codification," he admits that codes will never do away with case-law, but will merely reverse the existing relation between case-law and statute-law, making the latter the principal thing and the former the accessory. His suggestion, however, that this new case-law may advantageously be codified from time to time is quite in line with Bentham's ideals.

Historical jurisprudence, which has inspired most of the reaction against the analytical school, has had little influence upon Professor

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Salmond's theories. From his recognition of the legal character of international law, based upon the fact that its rules are enforced, in the last instance, by war, it might be inferred that he would recognize early custom, enforced by self-help and feud, as law also. On the contrary, he defends the "imperative" theory against the historical attack:

> If there are any rules prior to and independent of the state, they may greatly resemble law ; they may be the primeval substitutes for law; they may be the historical source from which law is developed and proceeds; but they are not themselves law. There may have been a time, in the far past, when a man was not distinguishable from an anthropoid ape, but that is no reason for now defining a man in such wise as to include an ape [p. 54].

There are other evidences in the book that the author is not interested in legal history. He misapprehends, for example, the character of the Roman juristic literature in placing it in the category of mere professional opinion (pp. 104, 105). He does not seem to be aware that this juristic literature was always predominantly a mass of case-law, or that in the second and third centuries it became substantially a judicial digest of the decisions of the supreme court of the empire. Again, in writing of English equity (pp. 46 *et seq.*) he notes no historical source for the extraordinary powers exercised by the chancellors, except Greek and Roman ideas of equity transmitted through mediæval legal theory. He does not seem to be aware of the fact which Brunner has pointed out, that the right of deciding cases without regard to the rules of the common tribal law was an attribute of early Germanic kingship.

The author is, however, familiar with the German systematic literature of modern Roman law: he knows, for example, the Pandects of Windscheid and of Dernburg, and the writings of Jhering. His definition of a right is Jhering's, and his discussion of many special topics has been advantageously influenced by a comparison of German with English theories. His chapter on possession is especially valuable because of the dearth of English literature on this topic.

The book can be recommended to law students and to all persons interested in legal theory. If it has not thorough consistency, it has at least coherence. The writer has worked out for himself a body of fairly tenable theories, and he sets them forth clearly and forcibly. Those who agree with him will find themselves furnished with a convenient set of pigeon-holes for their legal concepts, and those who do

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not agree with him will be constrained by his positive and occasionally exaggerated statements to formulate their dissent. This latter service is one of the greatest which a theoretical work can render.

MUNROE SMITH.

*Mutual Aid a Factor of Evolution.* By P. KROPOTKIN. New York, McClure, Phillips & Co., 1902. — 8vo, xix, 348 pp.

The very title of the book shows that a problem of great scientific importance is approached. While the fundamental ideas of the work are perhaps not altogether new, nobody before Kropotkin has undertaken in this direct way to state the rôle that mutual aid has played in evolution and its relation to the struggle for existence. Obviously the term "mutual aid" may convey many different meanings. It may be understood as the "sense of justice and equity," it may apply to a community of interests, to a co-operative struggle for existence, to the *belli auxilia* in the Hobbesian sense. One soon discovers that Kropotkin uses the expression in the vaguest possible way.

Kropotkin begins by citing cases of mutual support among animals, but in all the cases cited we fail to see anything but gregarious co-operation for a common purpose — an interesting subject of study, no doubt, but something quite different from mutual aid for its own sake. Kropotkin maintains that "mutual aid" is as much a law of animal life as mutual struggle, but that as a factor in evolution it most probably has a far greater importance, inasmuch as it favors the development of habits and characters which make for the survival of the species and the greatest welfare of the individual. This is doubtless true, but Kropotkin fails to prove that mutual aid is the antithesis of mutual struggle. "Mutual aid in struggle" would have been perhaps a better name for these complex phenomena to which Kropotkin devotes the first two chapters of his book.

The following two chapters deal with mutual aid among savages and barbarians. To all who have read other works by the same author it is probably well known that state and authority are his *bêtes noires*. It is therefore natural that the social life of savages appears to him to represent the ideals of communistic anarchism. Not that he consciously selects the data to suit his theories, but the nature of all so-called original material relating to savage life is such that it may be used in support of almost any position.

Kropotkin is, however, unquestionably right in asserting that mu-

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tual aid in some form or other permeates the social relations of all savages and barbarians. A study of the evolution of mutual aid in human society from its beginnings in tribal organizations to the forms it takes in modern state and city would have been most fruitful. Such a study is, however, very far from the purpose of our author. What Kropotkin aims to give is a sociology from the point of view of communistic anarchism. He does not recognize the mutual aid that characterizes the functions of the modern state and city. Instead, he emphasizes the struggles of individuals and of states.

In his excellent chapters on mutual aid in the mediæval city, he naturally enough fails to see that the mediæval city was a state, or the organ of a state; he regards it as a free federation of guilds. Nor is even the mediæval state itself odious to him, since it appears to him to be an almost anarchistic society. It is the same old story of paradise lost, of the golden age, and the same old hope of the millennium. According to Kropotkin it almost seems that all of our good qualities have been transmitted to us from the state of nature, before we fell from grace, before we developed political authority.

In his chapter on mutual aid among ourselves, Kropotkin naturally finds that the state is the root of all evil. The thought that we have outgrown village conditions and that our mutual aid, if it is to be effective, must be adequately organized and specialized, does not even occur to him. And it is almost painful to find that a man of his breadth of mind should sneer at us because we have antiseptic public hospitals with efficient physicians and nurses to take care of the sick instead of leaving that function to the fraternal good-will of the individual.

Kropotkin's statements in regard to the village community in Russia are very inaccurate. "Nowhere," he writes, "did the village community disappear of its own accord; it took the ruling classes several centuries of persistent but not always successful efforts to abolish it . . . ." (p. 230). "In short, to speak of the natural death of the village communities in virtue of economic laws is as grim a joke as to speak of the natural death of soldiers slaughtered on a battlefield" (p. 236). As a fact, however, the Russian village community is simply a product of the agrarian policy of the state. Before the abolition of serfdom, the Russian peasantry were either the property of the nobles — that is, private serfs — or of the state — crown-land peasants.

Unlike the German noble, the Russian noble landlord took no interest in agricultural improvements; he did not undertake large-scale farming under his own direction. He usually left the farming entirely to his peasants, exacting from them in tribute as much as he possibly

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could. This plan was so general that the serfs universally believed that while they themselves belonged to the nobleman, the land belonged to them — a legal absurdity. It is evident that since the farming was done by serf-families, it was necessary for the landlord to see to it that each peasant-family was provided with land. The land, however, was a fixed quantity, while the composition of each serf-family and the number of such families were constantly changing. Constant reallotments of the land were therefore necessary. And here you have the much-talked-of village community.

The private serfs did not constitute the whole of the Russian peasantry; there was a large class of peasants who lived on crown lands. There was further a considerable number of free farmers (*odnodvorcy*, or single-farm-owners), descendants of petty officers who were employed in the early days by the Tzars of Moskow and received small land grants from them for their services. During the nineteenth century the village community was to a very large extent imposed upon by these two classes for fiscal reasons. The crown-land peasants have been since 1724 subject to a poll tax. The land was originally only nominally owned by the state; as a matter of fact, the peasants bought, sold, leased, rented, and willed their land at their pleasure. The result was of course that a differentiation of peasantry took place. Some became large landowners, others became extremely poor. The poll tax in the meantime was the same, and the poor were unable to pay it. Instead of adjusting the tax-rate to the changed conditions, the government decided to restore equality among the peasantry by the introduction of the village community system. Such was the law passed in 1770, the complete text of which may be found in the *Complete Collection of Laws of the Russian Empire* under No. 13,590. This law, however, had only local effect. In northern Russia the peasantry were so individualistic that it took the government decades to introduce the village community. The ordinance of March 6, 1830, was of such a nature that it could not be disobeyed, and the blessings of the village community were in 1830–31 introduced there, though only after bloodshed.

But Kropotkin does not object to state and law so long as they introduce the village community, and he does not even notice the atrocities with which such measures are often accompanied. "The peasants," he writes,

> were formerly individual owners of their plots and used to rent and sell their land at will. But in the fifties of the nineteenth century a move-

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ment began among them in favor of communal possession, the chief argument being the growing number of pauper families [pp. 253, 254].

As a matter of fact this movement began not among the peasants, but in administrative circles at St. Petersburg. The moving spirit was Count Kisseleff, a very remarkable statesman, who like the Russian revolutionists believed in the village community, but for different reasons. He saw in the village community a conservative force that would preserve the Russian *status quo*. He thought that the village community would save Russia from a landless proletariat class and a labor movement, since it would prevent mobilization of property and provide equal allotments for each member of the community. Count Kisseleff, who in eleven years of his administration compelled 533,201 peasants to adopt the village-community system, was not so blind as not to see its economic disadvantages, but he was willing to sacrifice economic considerations to the political purpose.

But Kropotkin, as the reader will certainly observe, cites instances where the village community is compatible with agricultural improvements. The instances are correct, but they are exceptions and not the rule. Kropotkin takes all his data from V. Voroncoff's book, which was a decade behind the times when it was published in 1892. The fact is that the village community is going to pieces with a marvelous rapidity. It is a dead issue. It ruined the peasantry: it introduced equality among them, but it was the equality of destitution; and the development of capitalism has entirely disintegrated the old institution. Those who desire to find proofs of these statements will find them in my article "Mir," in Conrad's *Handwörterbuch*, second edition, and in my book *Die Feldgemeinschaft in Russland* (Jena, 1898), especially in chapters 27, 36, 37, and 38. One has only to add that several months ago the government itself was obliged to abolish the several and joint liability which was a mainstay of the village community.

To sum up: Kropotkin has failed in his attempt to give us a scientific work on mutual aid as a factor of evolution, but as he is the first to consider the problem, great credit is due to him. Because of his opposition to the state, he is forced to ignore compulsory mutual aid. But whatever the scientific failings of this work may be, it is certainly so important that its perusal is mandatory upon all who are interested in social science.

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*Principles of Economics.* By N. G. Pierson, translated from the Dutch by A. A. Wotzel. Vol. I. London, Macmillan & Company; New York, The Macmillan Company, 1902. — xxx, 604 pp.

The translation of the first volume of the *Principles of Economics* by Dr. Pierson, the distinguished Prime Minister of Holland, makes available for English readers a work which already enjoys an international reputation. Vol. II, of which the revised Dutch edition appeared only last year, is expected to follow in its English dress in due time. Until it, too, is available for review, any criticism of the work must be tentative and incomplete.

The first point about the book to strike the American reader is the unusual arrangement of its material. Parts I and II, which constitute Volume I, treat not of Consumption and Production, but of Value in Exchange (including Distribution) and Money. This relegates to the second volume Part III on Production, and Part IV on The Revenue of the State. The author justifies this plan of treatment on the grounds that all of the intricate problems of economics result from the system of exchange and that, for this reason, the latter must be explained before other parts of the subject are considered. In the reviewer's opinion this justification is insufficient. The truth is that all of the phenomena of economics are so closely related that a systematic writer on the subject is confronted by a task analogous to that of finding the beginning of a circle. At whatever point he breaks in, he is compelled to deal with questions that can be fully answered only after the whole field has been surveyed. The problem for the author of a complete treatise is, therefore, to take up first those relations which are at once most fundamental and most elementary, and to pass by easy stages to other relations which are either of greater complexity or are bound up with changing industrial institutions. We can only determine whether Dr. Pierson's method satisfies these requirements after having reviewed the contents of the volume under consideration.

In addition to the four parts spoken of there is a forty-page introduction to the whole work which indicates very happily the author's point of view and style of treatment. The discussion of the scope and method of economics, of its relation to other sciences and of the nature of economic laws is characterized by conservative and, on the whole, sound judgment. The author excludes consumption from economics on the common-sense ground that as a matter of fact treatises which include consumption find little or nothing to say under that head which

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might not be more profitably said in some other connection. Although this contention as regards general treatises is perhaps justified, acquaintance with the writings of Professor Patten on the subject of consumption at least encourages the hope that there is enough in this field to justify its separate treatment. Certainly the general consensus of opinion among American economists is favorable to its inclusion as a distinct part of economics. The author's unwillingness to accept the conventional distinction between economics as a science and economics as an art is based also upon a common-sense view of the matter. He points out that statements in the indicative mood of the line of conduct which is economically desirable (science) do not need to be translated into statements in the imperative (art) to convey their lesson. In his opinion there is, properly speaking, no art of economics, for the simple reason that material welfare is too narrow a criterion on which to base prescriptions as to social policy. The art that is needed is what Germans call *Socialpolitik*, which bases its prescriptions on the principles supplied, not by economics alone, but by all of the social sciences. It may be objected to Dr. Pierson's contention that he fails here to recognize the distinction between economics as an abstract, deductive science and economics as a study of economic problems in the light of the conclusions of abstract science. Although the distinction between economics as science and economics as art may be valueless, a distinction between pure economics and practical economics would seem still to serve a useful purpose. But these criticisms refer to minor features of the Introduction. As a whole it serves admirably to present the considerations which ought to be brought to the reader's attention at this first stage of his study.

Part I on Value in Exchange is divided into seven chapters, treating respectively of the Origin of Value in Exchange, the Rent of Land, the Rent of Houses, Interest on Capital, the Profits of Entrepreneurs, the Wages of Labour and Prices. In his treatment of value and distribution, the author shows at every point the influence of the Austrian school. Menger's *Volkswirthschaftslehre* he characterizes as "one of the best works on political economy which have appeared in the German language." His references to von Böhm-Bawerk are equally laudatory, and in his treatment of interest he follows closely the plan marked out by the latter author in his *Positive Theory of Capital*. Although so appreciative of the work done by the Austrian economists, Dr. Pierson is at the same time loyal to the English classical writers. His references to Ricardo, especially, give evidence of

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the high opinion which he entertains for that author. Thus there is presented in his work, as in Professor Marshall's *Principles of Economics*, a reconciliation of the theories of the classical economists with the latest suggestions of the writers of the Austrian school. If the result is not always satisfactory in details, it at any rate gives to the treatment of each problem a breadth which is grateful after the hair-splitting and destructive criticism which has been so conspicuous a characteristic of the economic literature of the last generation.

Quite as commendable as the author's breadth is his simple and luminous style. As statesman and man of affairs, Dr. Pierson combines with his mastery of the subtleties of economics full knowledge of actual business and political conditions, and the result is a work which may be compared even with *The Wealth of Nations*. It has the same discursive quality which made Adam Smith's book popular. Combined with this characteristic is the same happy gift of illustration which was possessed by the "father of political economy," and the same power to lay bare the misconceptions of the average practical man. The close relation between the work and the questions which interest men of affairs is indicated by the space given to different topics. Thus, the question of the causes which determine the rent of houses, which is usually dismissed in a few sentences, or at most paragraphs, in treatises on economics, is accorded a special chapter of nearly fifty pages; while the subject of wages, which is so often treated in an abstract way, is discussed with special reference to the influence of strikes, labor unions, labor-saving machinery, *etc.*, in a chapter of nearly one hundred pages.

The author's treatment of money compares favorably with anything to be found even in special treatises on this difficult topic. His acute criticism of the use of index numbers as a means of tracing price changes, which first appeared in the *Economic Journal*, is summarized as justification for the view that general price changes can be only roughly measured and that the principal service of price statistics is to throw light on the changes in the prices of particular commodities. In his discussion of money he takes up the gauntlet thrown down by modern critics of Ricardo and reasserts the quantity theory (or, more properly, the demand-and-supply theory) as the only one which at once explains the phenomena of the market-place and satisfies the reason. His breadth of view is shown by his admission that could international bimetallism have been introduced in 1873, it would have served a valuable purpose, coupled with his earnest advocacy of gold monometallism as the policy now to be desired for all countries.

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His treatment of foreign exchange is particularly full (fifty pages) and leaves little to be desired even by the specialist.

Notwithstanding its conspicuous merits, Dr. Pierson's volume fails to supply the reader with that clear view of the influences which determine values, prices, and the shares in distribution which is beyond question in the mind of its author. In the reviewer's opinion this is because of the departure already noticed from the usual arrangement of the material. To the trained economist the statement that the amount of wealth to be divided between rent, interest, profits, and wages depends upon the amount of wealth that is produced is trite, but it is a truth that cannot be too strongly impressed upon the beginner. It is true, as Dr. Pierson insists, that modern production revolves about the system of exchange, but the essential elements in that system may be described, in so far as such familiar facts require description, in an introductory survey of the field of economics. If this is not followed by a brief discussion of consumption, as the goal of economic activity, it ought, in any event, in the reviewer's judgment, to be followed by an account of the influences, natural, legal and personal, which determine the volume of wealth that is produced, and whose division is the special problem of distribution. Only in this wise can the fundamental relation between production and distribution be placed in so clear a light as to defy misconception.

The theory of distribution which Dr. Pierson presents is the so-called exchange theory, so ably defended as regards interest by von Bohm-Bawerk. Although logically unassailable so far as it goes, this theory, in the reviewer's opinion, needs to be supplemented by the productivity theory to afford a complete explanation of the phenomena of distribution. This is a second reason why the postponement of the treatment of production to the second volume seems unfortunate. In consequence of it, Dr. Pierson has committed himself to statements, *e. g.*, that "the lowering of wages, of itself, reduces the amount of capital required" (p. 224), which are more in harmony with the wages-fund theory which he himself repudiates, than with the clear understanding of the true relation between the product of labor and the wages of labor which he displays in other parts of the book. If, as Professor Clark maintains and as the reviewer believes, the normal laws of distribution in a freely competitive society give to each factor a share of the product corresponding to what it has itself produced, no treatise which discusses distribution as the first, and production as the third, part into which the subject-matter of economics is divided, can hope to do full justice to the problems considered.

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In spite of this serious defect, the volume under review compares favorably with similar treatises already available in English. As Professor Edgeworth said of the Dutch edition — and the statement applies even more to American than to English readers — "there is a quality in the work which is probably demanded by our public more than much of the home-made article." It is a matter for congratulation that the task of translation has been so admirably performed that this quality has been fully preserved. Nor has the translator contented himself with a mere rendering of the original text. He has added the latest statistical information at every point, so that the book has many of the merits of a new edition. The appearance of the second volume is awaited with keen interest.

HENRY R. SEAGER.

*State Experiments in Australia and New Zealand.* By WILLIAM PEMBER REEVES. 2 vols. New York, E. P. Dutton & Co., 1903. — 391, 367 pp.

To students of practical economics, Mr. Reeves's work will prove one of the most instructive and suggestive that have appeared in the last decade. Every one is interested in Australia and New Zealand — a part of the world where is found a purely English population, largely emancipated from the traditions that play so important a part in the economic policy of the mother country. We have long known that radical social experiments were being carried on there; visitors to the antipodes like Henry D. Lloyd and M. Métin have given us their impressions of the success of these innovations; newspaper correspondents have furnished accounts colored to suit the taste of readers. In the work under review we are given a full description of the entire situation by a man who has played an important part in conducting the social experiments with which he deals. And the general tone of his discussion is so frank and dispassionate that even those who are hostile to the policies involved will be compelled to accept all statements of fact as valid. Nor does Mr. Reeves confine himself to a mere description of conditions in New Zealand and Australia; he constantly bears in mind the application of the results achieved there to the conditions of older countries, with which he shows himself thoroughly familiar. If in so doing he has laid himself open to criticism which he would otherwise have avoided, he has greatly enhanced the value of his work for those whose chief interest lies in the reform of social conditions in the great industrial nations.

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Volume I begins with a geographical essay which presents a very clear picture of the natural wealth with which the colonists are endowed. Mr. Reeves is very much of a traveler, and keenly enjoys the picturesque scenery, especially of New Zealand. Conscious that he is writing an economic work, however, he makes a point of disparaging anything the utility of which is not apparent. Thus the coast of Western Australia is described as "a sandy strip . . . more remarkable for the unprofitable beauty of its wild-flowers than for usefulness" (I, p. 17). "The park-like woods are not dense enough to break the settler's heart as he labours to clear them" (I, p. 19), illustrates the author's thoroughly British point of view.

The remaining five chapters of the volume deal with The Progressive Movement, Women's Franchise, Federation, Preferential Voting, and the Land Question. The first of these chapters is essential to an understanding of the manner in which the Australian colonies have undertaken policies which generations of pessimists have prejudged a failure. The chapter on Women's Franchise will be intensely interesting to advocates of woman suffrage in America. It appears that in Australasia, at any rate, women were not originally clamorous for the "natural right" of voting; that when they received the privilege, they were no more inclined to remain away from the polls than were the men; that they vote apparently with as much intelligence and as little passion as their brothers; that political life has undergone no surprising regeneration, nor have men possessing merely an attractive personality found it easier to attain political power. Nor are we to assume that they are a peculiar race of women; they were, says our author,

> reassuringly devoid of surprising characteristics. They were neither intellectual nor babyish, neither highly cultured nor illiterate, neither aristocratic nor distinctively plebeian, neither artistic nor vulgar, neither venturesome in thought nor narrowly conventional and superstitious [I, p. 146].

The chapters on Federation and on Preferential Voting are brief, and their interest is more exclusively local than that of any other part of the book. The chapter on the Land Question gives a brief history of the land policy of the Australasian colonies — a record of mistakes which compares very favorably in folly with our own. What has been done to remedy the mistakes is described at length; but the net result is small. Repurchase by the state — compulsory in New Zealand — and progressive taxation have done a little to mitigate the evils of

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land monopoly. Along this line interesting developments remain for the future.

The second volume is of greater importance to the economist. About half of it is devoted to The Labour Question. This chapter is introduced by a description of the conditions that led to the enactment of labor laws. All the evils of the factory system had already gained a foothold in Australia and New Zealand when the legislator took up the problem of the relations of labor and capital. As a result of a long series of experiments efficient factory acts were passed; and the principle of a minimum wage, fixed by official boards, was adopted in Victoria and South Australia, and the principle of compulsory arbitration in New Zealand. Mr. Reeves's account makes it clear that these radical measures were not enacted without due deliberation, and his discussion of the operation of the laws should banish the fear that the Australian colonies are being ruined by injudicious legislation. Capital is increasing, manufactures are thriving, and the antagonism between labor and capital is certainly no more bitter than elsewhere. To those who predict that a deadlock will follow when a determination is given which is intolerable to one of the parties in dispute, Mr. Reeves puts the pertinent question: "Why assume that the awards of a competent tribunal will be intolerable to one side or the other?" Common sense would approve the assumption that the arbitration tribunal "would not be composed of arbitrary fools, but of experienced men anxious to find a reasonable *modus vivendi*" (II, p. 166). No better proof of the satisfactory character of the compulsory arbitration law could be given than the practical disappearance of opposition to it:

> When the Arbitration Bill was first printed in 1891, it was considered so strange and dangerous that the framer was not permitted to move the second reading for twelve months. In 1900 the measure as a whole found nobody to attack it — or, to speak by the card, one courageous gentleman did so, at the price of being mildly chaffed and likened to Rip Van Winkle [II, p. 123].

The minimum wage laws, as the author clearly shows, tend toward the same result as compulsory arbitration. Either policy tends to take the fixing of wages out of the hands of employers and employed, substituting official determination for private bargaining. That no serious injustice is done to either party in the Australian colonies is probably true. How such a plan would work in a great industrial country like the United States or Great Britain, is a problem of a more

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serious nature. Mr. Reeves seems to think the principle capable of application even in such countries, and it is here that many economists will be likely to question the soundness of his views.

The remainder of the volume is devoted to Old Age Pensions, Liquor Laws, and The Exclusion of Aliens and Undesirables. Mr. Reeves is heartily in favor of old age pensions, and what he has to say of the plan convinces one that it is probably just and expedient — in Australia. The chapter on the Liquor Laws is devoid of striking characteristics; it records, nevertheless, an encouraging progress in temperance. The final chapter describes the evolution of the policy by which the colonies effectually exclude the yellow, brown and black races which might otherwise swamp Australia and prevent her from making her promised contribution to the solution of the social and economic problems of western civilization.

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*The Second Bank of the United States.* By RALPH C. H. CATTERALL. Vol. II, Second series of the Decennial Publications of the University of Chicago. Chicago, The University of Chicago Press, 1903.

The student of the financial history of the United States has been placed under great and permanent obligations to Mr. Catterall by the appearance of this work. It is a well-digested mine of information which hereafter will prove indispensable to the study of the period 1816–1836. Approximately the first third of the book (pp. 1–164) is devoted to the establishment and the early administration of the Bank; the Bank's entrance into the political arena and the dramatic episodes of the struggle which resulted in the failure to renew the Bank's charter occupy the heart of the volume (pp. 165–376); while certain important phases of the institution's activity, such as the work of its branches, its issue of bank notes, its relation to the State banks, and to the Treasury, are treated in monographic fashion in the last hundred pages (pp. 376–477).

This history derives peculiar interest and importance from the fact that the author has been permitted free access to the papers and letters of Nicholas Biddle, who during the most stirring period of the Bank's history was its president. The light which these invaluable materials shed upon the sources hitherto accessible is very often of the utmost significance. The care with which all available material bearing on the Bank's history has been canvassed, collated, and weighed

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is evidenced by a very brief examination of Mr. Catterall's work. The frequent footnote puts a wealth of reference at the investigator's disposal, and affords him opportunity to check the evidence upon which even the minor conclusions are based. The sources of the Bank's history have been weighed with unflagging carefulness; the disclosure of fact is so frank and so full as to allow the cursory reader an opportunity to assess and sometimes even to disannul the conclusions propounded; and there is maintained throughout an admirable balance of treatment, apportioning to each topic its rightful space. Among the more interesting verdicts reached are the conclusions that it was Biddle himself and not Clay, as is generally supposed, who in 1832 precipitated the political struggle over re-chartering the Bank; and that in the matter of Jackson's removal of the deposits, the action of the nation's chief executive was strictly legal (p. 332).

From the standpoint of colorless scientific research into the myriad facts of this era in our financial history there is nothing but unstinted praise to be accorded to Mr. Catterall. It is well to set this pronouncement in the forefront, because it is the judgment which a careful perusal of the volume will almost certainly evoke.

It does not qualify this verdict nor lighten our obligations to Mr. Catterall to add that sometimes when he essays the far more difficult task of generalizing upon the Bank's political influence and its comparative usefulness as a governmental agency, he does not always win the reader's assent. The struggle between Jackson and the Bank is one of those political issues upon which philosophic historians may differ to-day almost as warmly as did political partisans in the heyday of the actual conflict. In setting forth the facts of this battle royal there is no question of the author's perfect fairness. He conceals nothing that ought to be known. In giving the evidence he is impartiality itself, but in pronouncing judgment he seems hardly to do Jackson and his followers even-handed justice. Thus we are told that

> From this point of view [the alleged progressive usefulness of the Bank], it becomes obvious that Jackson and his supporters committed an offense against the nation when they destroyed the bank. The magnitude and enormity of that offense can only be faintly realized, but one is certainly justified in saying that few greater enormities are chargeable to politicians than the destruction of the Bank of the United States [p. 476].

The "abysmal ignorance" which Jackson and his followers display in matters economic is an unfailing rock of offense to the author. He

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is given to making flings at the financial ignorance of "the masses" (p. 205), at "the people who do not need to understand" (p. 230), at "economic reasoning" [Jackson's] "beneath contempt" (p. 239), and the "mental processes of average, honest, ignorant man" (p. 296). But he is never provoked to stinging satire by the blazing indiscretions of Biddle. Thus he hastens to give the Bank a technical acquittal of any alleged corrupt connection with politics. "It may be said at once," he remarks (p. 243), "that there never has been any evidence produced to show that the bank as a national bank ever spent a dollar corruptly." But unless corruption be construed as a bald purchase of votes for cash, this sweeping acquittal must be very seriously modified. Thus it appears by his own showing that, "Thenceforward the bank acted, not as a business corporation should act, but as a body possessing political functions and created for political purposes" (p. 243): that it "unquestionably . . . lobbied in its own interests in the legislatures of New York and Pennsylvania" (p. 251): that the Bank "was accustomed to give drafts for the salaries of congressmen, payable at points distant from Washington, without charging exchange" (p. 252), while private persons were required to pay exchange: that the Bank advanced to congressmen their salaries before the salaries became payable, by virtue of an appropriation act (p. 252–53): that this advance in one session amounted to $400,000, "which was equivalent to a loan without interest" (p. 253). He remarks (p. 253), "That the officers of the Bank were willing to make loans on easy terms to congressmen is likely." The evidence that follows proves not that it is *likely* but that it is *certain*. In 1832, for example, forty-four members of Congress were indebted to the Bank for $478,069. The year previous fifty-nine members of Congress had received loans from the Bank. George McDuffie, chairman of the Committee of Ways and Means, received accommodation in 1833 for the trifle of $100,000, "the agreement being to loan on mortgage and to renew the note indefinitely" (p. 254). Biddle, it appears, used the Bank's funds to subsidize the press. On p. 263, "It does appear as if Biddle had become sadly involved with the *Courier and Enquirer* and could not extricate himself. The loans granted to the editors of this paper would assuredly not have been made to others unless similarly situated." Biddle was allowed by the Bank directors a "secret service fund" for whose expenditure he returned no vouchers (p. 265). Biddle made loans and discounts on his own authority without consulting the exchange committee of the bank, and at times against the protest of the cashier (p. 278). Biddle refused to allow the directors of the Bank appointed by the

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United States government to see the books of the bank, though their right was incontestable (p. 310). And finally it is averred that,

> The enormous reductions [in loans and discounts] made by the bank were certainly in excess of any possible danger, and were continued long after any such danger threatened. The president and company of the Bank of the United States were . . . not merely angry but vindictive, and vindictive with calculation. They hoped to force a re-charter, or at least a restoration of the deposits, by exercising a monetary pressure upon the country [p. 329].

In the face of the above recital it is questionable whether every one will assent to the verdict given *in re* Andrew Jackson *v.* The Bank of the United States. It is greatly to the credit of the author's candor, however, that he himself freely furnishes the materials out of which the reader may build up a judgment contravening the author's conclusions as to the irreparable loss suffered by Jackson's destroying the Bank.

There are two further generalizations of Mr. Catterall's that are open to grave doubt. The first is his contention that the experience of European nations demonstrates the need, or at least the overwhelming convenience, of our having in the United States a bank built on similar lines to the one whose history he has traced. The second is his concluding remark that "it will have to be acknowledged that the old bank, in its services to the government, was far superior to any other banking system known in this country."

There is one further regret which the study of this volume evokes, and that is that its author does not unite to his power of scientific historical inquiry the skill of a surpassing literary craftsman. It is not, of course, to his discredit that he does not possess the latter faculty, but his command over his material is so ample, and the whole situation, financial and political, is so alluringly dramatic, that there was presented the opportunity of producing not only a history of permanent value, but a classic of permanent charm. It will be remembered what an undying picture Macaulay drew of the Bank of England with so unpromising a character as the nondescript William Paterson in the rôle of founder, — whose early career in the tropics was so uncertain that one version made him a buccaneer and another a missionary. It will also be remembered how incisively Bagehot portrayed the latter administration of the Bank even with a total dearth of *dramatis personæ*. How either author would have rubbed his hands at the chance afforded by pitting against each other such aggressive personalities as

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Andrew Jackson and Nicholas Biddle! But this, after all, is mere speculation, while it is our task to assess the actual, and our dominant impression after all is not one of regret, but of extensive obligation to Mr. Catterall.

W. M. DANIELS.

PRINCETON UNIVERSITY.

*La Propriété Rurale en France.* By FLOUR DE SAINT-GENIS. Paris, Librairie Armand Colin, 1902. — xviii, 445 pp.

*La Propriété Foncière en Belgique.* By ÉMILE VANDERVELDE. Paris, Librairie C. Reinwald, 1900. — 327 pp.

*Revision des Socialismus.* By DR. ALFRED NOSSIG. Berlin and Bern, Akademischer Verlag fur sociale Wissenschaften, 1901 and 1902. — Vol. I, xxxix, 277 pp.; Vol. II, vii, 587 pp.

It would seem that more attention is being given to the study of agrarian questions in the United States to-day than ever before. The American student who turns his attention to the economic problems in agriculture is impressed with the fact, however, that this field has not as yet been exploited. It has not even been surveyed and mapped out. This is doubtless due to the fact that our agrarian problems are new. Land tenure, for example, has become a serious problem only recently; for until recently landownership on the part of farmers has been easily acquired.

The paucity of our literature on the subject has led American students of agricultural economics to turn to Europe. In Europe the problems which are just beginning to perplex our minds had to be dealt with many years ago. The attempt to solve these problems has resulted in the accumulation of a vast amount of literature, some of which will prove valuable to the American students. The problem of land tenure has been solved in Germany, for the present at least, by means of a most excellent credit system which enables most of the farmers to own the land which they cultivate. As a result, France no longer holds her traditional pre-eminence as the land of peasant proprietors, having had to yield the palm to Germany. England, the land of tenant farmers, seems to have solved her tenant problem, after more than a hundred years of experimentation, by developing a system of government regulation by means of which the relations between landlords and tenants are adjusted.

It is true that American conditions are not European conditions,

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and that the American economist who depends largely upon the European literature and does not give the very greatest attention to conditions as they are and as they are tending to become in the United States, will do little that is worth while. Yet a careful examination of the foreign literature is of great assistance to one who has made himself thoroughly familiar with American conditions and who knows enough of European conditions from personal observation to be able to discriminate between that which may be of use here and that which has resulted from peculiar conditions abroad.

The books which we have before us for consideration, are largely descriptive of agrarian conditions in three European countries. The work on *Rural Property in France* gives an account of the tenure and the size of farms in that country. Maps are given which show at a glance the districts in which large, medium, or small estates predominate. Part I is devoted to this description of the actual objective conditions, to the attitude of mind of the rural population on the subject of the ownership of land, and to the economic and legal conditions which retard or enhance improvements in agriculture. Part II discusses the future of landed property in France with special reference to needed reforms. The first part of this book will prove attractive and valuable to anyone who is interested in knowing the history and the present status of land tenure in France. The second part is of much less value to the agrarian economist.

The volume on *Landed Property in Belgium* is devoted almost entirely to the history of land tenure in that country, and to a minute description of present conditions in that regard. The first two hundred and sixty pages are devoted to discussions of the local conditions, past and present, in the various provinces of Belgium, one chapter being given to each province. The last forty pages contain a discussion of the country as a whole, statistical tables being given which indicate the past and the present conditions of landed property, with respect to ownership and occupancy. This piece of work has the appearance of having been done with great care; and while the detailed descriptions are for small areas, it is doubtless true that more can be learned by the careful study of a work of this kind than by giving the same attention to vague generalizations regarding whole countries.

The work by Nossig is of a somewhat different character. While it contains a very great quantity of historical and descriptive material, it is an attempt, as the title indicates, at a revision of socialism. It is pointed out that agricultural production is not tending to centralize. On the contrary, the tendency is rather to smaller farms, as the growth

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of population makes more intensive culture necessary. Nossig believes that the operation of farms should be left to private initiative. The working up of the products, or the marketing of such products as are ready for consumption, may be carried on to better advantage, however, by society as a whole. The suggested reform in the agricultural industry is the collective ownership of land. While this work is written primarily as "a revision of socialism," the student of agricultural economics will find in it much that is interesting and suggestive.

H. C. TAYLOR.

UNIVERSITY OF WISCONSIN.

*Rural England.* By H. RIDER HAGGARD. London and New York, Longmans, Green & Co., 1902.—2 vols., xix, 584 pp.; 576 pp.

This work describes English agriculture at the mercy of unchecked competition. First, there is competition from abroad:

> Food can be produced more cheaply in foreign lands than in Great Britain, and, owing to the preferential rates granted by the railway companies to imported produce, often can be delivered in our markets at a lower cost of carriage than must be incurred to despatch it from one part of England to another. [Vol. II, p. 536.]

Secondly, there is competition with urban industries that offer higher wages. Foreign competition lowers prices, and urban competition raises the cost of production. As a consequence, agricultural rents and profits have fallen, the cultivated area has greatly decreased, the loss of capital has been heavy, land sells at a fraction of its former value, and the banks are unwilling to advance money upon farm security. In some counties

> the possession of land is becoming, or has already become, a luxury for rich men, to whom it is a costly toy, or a means of indulging a taste for sport. Than this no state of affairs can be more unwholesome or unnatural; the land should support men, not men the land. [Vol. II, p. 543.]

Of course farmers of exceptional enterprise and possessing ample capital succeed where others fail. Success is also possible where the land is unusually fertile and well located. And in England, as elsewhere, the small farmer with a genius for hard work combined with the strictest economy is able to win a living from the soil. Except in Jersey and Guernsey, however, instances of prosperity are rare. Of

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the landlord, tenant, and laborer, the first has been hardest hit, the second is hardly holding his own, while the third has never been more discontented, although he is better off than ever before.

Among the remedies proposed are the cheapening of land transfer, the promotion of small holdings and of co-operative enterprises by means of the public credit, and, chief of all, the establishment of an Agricultural Post. The last is relied upon as a corrective for preferential rates on foreign produce:

> Without cheap transport, small-holders cannot flourish except under the most favorable conditions of soil and markets, and without small-holders, co-operation does not flourish — at any rate in England. [Vol. I, p. xviii.]

Protection is not regarded as practicable:

> Our policy of Free Trade . . . has shot its fibres through every part and organ of the body corporate, till it is in truth no excrescence or addition, but an integral part of our national life. . . . Protection must mean dearer food . . . and dearer food to the vast majority means less food and more work. To escape these things even law-abiding men might shed blood. . . . As well might we turn to the illusions of a happy dream to cure some actual work-a-day loss or misery. [Vol. II, pp. 538, 539.]

The method of treatment involves too much repetition. In addition to the Channel Islands, twenty-seven counties are described, many of which are so much alike that the narrative becomes monotonous. There is also too much mere compilation of data for the conclusions drawn. Condensation would have rendered unnecessary two such bulky volumes and increased the value of the work.

The author assumes, without sufficient proof, that the desertion of the country and the growth of cities "can mean nothing less than the progressive deterioration of the race" (Vol. II, p. 541). Much of the poverty and wretchedness in cities exists among immigrants from the country or their offspring. Unwholesome social conditions are more concentrated in the city than in the country, and are therefore more obvious. Moreover, the growth of population in the congested wards of London and New York is not keeping pace with that of the remaining wards. And while the death rate usually exceeds that of the country, this is by no means universally true; moreover, the death rate is falling more rapidly in the city than in the country. The

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rapid and continued growth of cities is in itself evidence of their superior social and economic opportunities.

Yet the work is one of real value. Some day it may rank with that of Arthur Young. The historian will find in it much of solid worth. Seventy-five illustrations from photographs of cattle, typical houses, *etc.*, enhance its value. Among its best features are the twenty-three maps, showing the topography, weekly wages, yearly rainfall, total and cultivated area, size of farms, character of the soil, crops, livestock, *etc.* The author has a pleasing style and gives evidence of unflagging industry and perseverance in the prosecution of his work.

C. F. EMERICK.

SMITH COLLEGE.

*Proceedings of Higher Commercial Education Convention*, held in Ann Arbor, Michigan, February 4 to 7, 1903. Publications of the Michigan Political Science Association, Vol. V, No. 2, June, 1903.

The Michigan Political Science Association is to be credited with the first attempt on any large scale to gather together university and business men for the discussion of problems that have arisen in connection with so-called "commercial education." The academic side was well represented by delegates from nearly all the institutions interested in this work, and prominent business men contributed to the discussions. That the three days' sessions were almost entirely lacking in tangible results is not so surprising or disappointing as it is suggestive. In the first place, persistent convention-goers are ready to admit that a formal program provides a dignified *raison d'etre* for a gathering, but that the real benefit is to be gained through informal conference outside convention halls. We may well believe that this convention was no exception to the rule and that the informal give-and-take of business men and educators has aroused great interest, established a sympathetic relationship between business and education that will strengthen as time goes on, and has given rise to many practical working ideas.

But the inconclusiveness of the discussions is further suggestive of the multitude of unsettled problems confronting administrators of this new task. Admitting the desirability of this form of education which obviously such a convention presupposes, the question then is, at what place in the college or university course shall it be introduced? Shall it begin with a few subjects in the freshman year and continue in increasing amounts through the four years; shall it begin in the

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junior year and be founded upon a two years' general culture course; or shall it be graduate in character? To what extent shall it supersede the so-called culture courses? Again, shall the commercial work be general in character, building a broad foundation upon which a man may in active life build his business experience, or shall it attempt a technical training for specific careers? To what extent shall the course confine itself to subjects purely commercial, that is, to the equipment of men for distributive industries, and to what extent shall it include training for manufacturing business? In other words, how much technical science and engineering shall be introduced? What methods shall be employed to impart instruction to students, and to what extent can the business community be relied upon to aid in this work? These in the main were the problems with which the convention had to deal, and it is no reflection upon the conferences to say that so far as the printed proceedings are an indication, the problems still exist.

It was evident that the business men present looked with concern upon any attempt to teach business details, urging rather a broad foundation in the social sciences, some even questioning the advisability of any modification of the general college course. It was further evident that very little aid in the shaping of a curriculum was to be gained from the business man through direct suggestion. It will be the task of the school to gather and organize material from observation of business life, aided by conferences with business men. The latter will judge of the value of the instruction from its product.

So far as the views of the university representatives were concerned, they reflected naturally, though possibly unconsciously, their individual environments. Each speaker was an earnest advocate of the plan which he was engaged in working out. And after all, the ultimate solution of the whole matter will be found, not in the framing of a cut-and-dried program to which all schools will subscribe, but rather in fashioning the course both in subject matter and method to meet local needs.

FRANK H. DIXON.

DARTMOUTH COLLEGE.

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# RECORD OF POLITICAL EVENTS.

[From May 25 to November 20, 1903.]

## I. THE UNITED STATES.

**FOREIGN RELATIONS.** — The relations of the United States with foreign powers during the last six months have been generally most cordial. The **Alaska Boundary Commission**, created for the settlement of the dispute between the United States and Great Britain concerning the boundary of Alaska (last RECORD, p. 359), organized in London, September 3, Lord Chief Justice Alverstone being chosen chairman. The vacancy in the commission caused by the death of Justice Armour in June was filled by the appointment of Mr. A. B. Aylesworth, a Toronto barrister. The commission was in session for the hearing of the oral arguments from September 15 to October 8, and on October 18 the decision was announced. Substantially all the claims of the United States were allowed. Her title to White and Chilkoot passes was confirmed, while she was awarded the small islands of Sitklan and Kannaghunut at the mouth of Portland Channel, with the right to navigate the channel and control its western shore. Canada was awarded Pearse and Wales Islands at the mouth of the channel. The two Canadian commissioners declined to sign the award and asserted that the rights of Canada had been unjustly sacrificed. — On October 8 the long-expected commercial treaty between **China and the United States** was signed at Shanghai. The chief importance of the treaty consists in the recognition which is given to the principle of the "open door," for which the government of the United States has steadily contended since the events of 1900. This is secured by a provision which throws open to international trade the two Manchurian ports of Mukden and Ta Tung Kao. The treaty provides also for the abolition, at an early date to be mutually agreed upon, of the vexatious *likin* and other internal transit dues. In consideration of this immunity from internal taxation, the United States agrees, if other powers do likewise, to pay at the port of entry on all its imports into China a surtax of one and one-half times the import duty. Other provisions of the treaty secure to American missionaries the right of residence throughout the empire, including the right to lease real estate in perpetuity; provide for the protection of patents, copyrights and trade-marks; and permit citizens of the United States to engage in the mining industries of China and to carry on trade and various industries in all open ports. As early as July last the government of Russia, the real sovereign in Manchuria, conveyed to the United States formal assurances that it would not in any way oppose the open-

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ing of the ports to foreign trade (see also THE ORIENT). — Another incident in the relations of **the United States and Russia** was not marked by the same cordiality. This grew out of the attempt of the President, during the excitement following the Kishineff massacre (last RECORD, p. 378), to lay before the Czar a petition, signed by a large number of American citizens, and relating to the condition of the Jews in Russia. The *chargé* of the United States at St. Petersburg, who was intrusted with the execution of this mission, was promptly informed by the Russian Foreign Office that the proposed petition would not be received under any circumstances. — In the relations of the United States with **Turkey**, the chief incident was in connection with the report that the American vice-consul at Beirut had been assassinated August 23. It was soon learned that he was unhurt, though an attempt upon his life had been made. In the meantime President Roosevelt had ordered the European squadron under Admiral Cotton to proceed to Beirut. Reparation having been duly made by Turkey, the squadron was withdrawn. — In September a protest was received from Great Britain against the seizure by an American warship of several **islands off the northeast coast of Borneo**, the British government claiming that they lay within the jurisdiction of the North Borneo Company. The claim of the United States was based on a treaty made with the Sultan of Jolo. Negotiations for the settlement of the dispute by arbitration are now in progress. — An incident in the relations of the United States with **Cuba** was the ratification by the Cuban Senate, July 16, of treaties relating to the Isle of Pines and to the grant of naval and coaling stations to the United States. By the former treaty the Isle of Pines was transferred in full sovereignty to Cuba, with a reservation of special privileges to American citizens in the island. By the latter, naval and coaling stations were secured at Guantanamo and Bahia Hondo upon payment of a small annual rental. A treaty embodying the provisions of the Platt Amendment (see RECORD for June, 1901, p. 373) was signed in May, but the Cuban Senate adjourned in July without ratifying it. Just prior to its adjournment the Cuban Senate approved a postal convention with the United States and an agreement for Cuban admission to the Postal Union. — So far as relations with Latin America are concerned, the chief event was the practical rejection by the Colombian Senate of the treaty for the construction of the **Isthmian Canal** (see last RECORD, p. 365). The Colombian Congress assembled in extraordinary session June 20 for the purpose of considering the treaty, but from the first the opposition was so strong that the friends of the treaty were unable to get a direct vote on it. The chief grounds of opposition were (1) that the proposed concession with regard to jurisdiction over the canal zone was an impairment of Colombian sovereignty, and was therefore prohibited by the constitution; (2) that the proposed compensation for the privileges specified was insufficient; and (3) that the

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Panama Company was without legal capacity to transfer its rights to a foreign power without the consent of the Colombian government, which had not been given. On October 20 the Colombian Secretary of State arrived at Washington with proposals for further negotiations on the basis of a larger compensation and the recognition of Colombian sovereignty over the proposed canal zone, but his proposals were rejected. Early in November the canal situation was transformed as a result of the secession of Panama from Colombia (see below LATIN AMERICA). Having recognized without any delay the independence of Panama, President Roosevelt entered upon negotations with the new State for a canal treaty, which was concluded November 20. It followed the general lines of the Hay-Herran treaty, but enlarged somewhat the jurisdiction ceded to the United States.

**CUBA AND THE DEPENDENCIES.** — The first year of the independence of **Cuba** closed in May with the general outlook most favorable. The sanitary condition of the island has been greatly improved, trade has increased, the legislation of the Congress has been marked by wisdom and conservatism, public improvements have been undertaken, and a substantial surplus remains in the treasury. The budgetary statement for the fiscal year 1904 estimates the receipts at $18,899,600, and the expenditures at $17,924,000. The Congress adjourned July 18, after a session of more than one year. Its most important acts were the ratification of several treaties with the United States (see FOREIGN RELATIONS) and the voting of a loan of $35,000,000 with which to pay the soldiers who served in the war of independence. — In **Hawaii** a significant manifestation of anti-Americanism was a resolution of the House of Representatives, passed by a vote of 17 to 9, declaring against the further admission of Americans to the islands. A $2,500,000 loan has been authorized, and the Hawaiian delegate in Congress has been requested to urge the improvement of the harbor and the erection of public buildings, and to ask for permission to retain the customs revenues in the islands. On October 31, Governor Dole resigned to become United States District Judge for Hawaii, and was succeeded by Geo. R. Carter, Secretary of the Territory. — In the affairs of the **Philippines** the most noteworthy incident was the announcement in August of the intention of Governor-General Taft to resign at an early date to become Secretary of War of the United States. At the same time it was announced that Luke E. Wright, the present vice-governor, would be appointed to succeed Governor Taft, and that Henry C. Ide, one of the present commissioners, would be appointed vice-governor. On July 19 General Wood, recently appointed commander of the Province of Mindanao, arrived in the islands, and at once entered upon the task of organizing a government for the Moro district, where a condition of pacification is now reported to exist. On July 28 the command of the department of the Philippines was transferred by Major-General George W. Davis, retired, to Major-General

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James F. Wade. The Philippine census, provided for by the act of June, 1902 (RECORD, p. 722), has been practically completed, and it is announced that the population of the islands is 6,976,574. In July the new monetary system created by the last Congress (see last RECORD, p. 362) went into operation, and large shipments of coin from the United States were made. Some difficulty was experienced in adjusting the new system to the conditions prevailing in the islands. Industrial and business conditions have been favorable. The exports from the islands have increased 20 per cent during the last year. The measures of the government to restock the plantations with carabaos (last RECORD, p. 358) have been only partially successful, owing to an epidemic of disease among the animals. By a ruling of the collector of customs at Manila in August, it was held that no foreigner under contract of employment could be admitted to the Philippine Islands. A noteworthy feature of the new Education Act is a provision for sending one hundred Filipino students at government expense to the United States for training for the civil service. The appointments are to be made on the basis of competitive examination and from pupils of the public schools. In this connection it is worthy of note that the Supreme Court of the District of Columbia decided, October 13, that native Filipinos are qualified, so far as citizenship is concerned, to practice law before the bar of the District.

**INTERNAL ADMINISTRATION.** — Under this head should be noted the inauguration of the new **Department of Labor and Commerce** on July 1. — An extensive series of **scandals and frauds in the Post Office Department** has been unearthed in the period under review, mainly in connection with the contracts for supplies. Some thirty persons have been indicted, several high officials in the department have been dismissed, including the superintendent of free delivery, the chief of the division of salaries and allowances, the superintendent of the money-order bureau, and the auditor for the department, while several others have been compelled to resign. Some of the offenders are charged with conspiracy to defraud the government on supply contracts; others are accused of using their official positions improperly to secure contracts for firms with which they are connected; while still others are charged with falsifying their pay accounts. A former member of Congress from Brooklyn was indicted for accepting money for aiding a firm to secure a contract, while several persons connected with manufacturing concerns have been indicted for offering bribes. The President ordered a thorough investigation of the scandals, and appointed Charles J. Bonaparte and Holmes Conrad special counsel to aid the law officers of the government in prosecuting the accused parties. Other incidents of note in the postal administration include an important extension of the rural free delivery service, and a decision of the Circuit Court of Appeals for the District of Columbia, excluding from the category of second-class matter certain kinds of periodicals which have here-

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tofore been so classified. — In August **scandalous practices in the administration of Indian Affairs** were brought to light. A number of officials in the Indian service, including the Dawes Commission, along with certain trust companies, were charged with cheating the Indians out of the real value of their allotments of land by means of fraudulent leases. Mr. C. J. Bonaparte was appointed to undertake a special investigation of the charges, while the Department of Justice has undertaken an investigation of its own. — **Irregularities in the immigrant service** at New York have also been discovered, and a special commission of investigation has been appointed by President Roosevelt. — Two changes in the personnel of **the Civil Service Commission** were caused by the resignations of Mr. Foulke and Mr. Garfield, the vacancies being filled by the appointment of A. W. Cooley of New York and A. H. Green of Ohio. The President in July issued an order declaring that positions in the Federal service were incompatible with membership in municipal councils. — On October 25 was made public the **report of the Commission on International Exchange** consisting of H. H. Hanna, C. A. Conant and J. W. Jenks, appointed by the President at the request of the governments of Mexico and China, to secure the co-operation of European governments in providing measures for restoring and maintaining a fixed relationship between the moneys of gold standard countries and those of countries having the silver standard. Accompanied by the Mexican Commission they visited the various European capitals and conferred with commissions appointed by the governments of the countries visited. The report recommended the adoption of a gold exchange standard in the silver-using countries and the introduction of a uniform gold standard system in China. The **Treasury statement** at the close of the fiscal year, June 30, showed that the amount of available cash on hand was the largest ever known, being more than twenty-five million dollars above that of one year ago; that the excess of receipts over expenditures for the year was nearly fifty-three million dollars; and that the value of exports exceeded that of imports by more than three hundred and eighty million dollars, representing the largest foreign commerce in the history of the country. On September 14 the Secretary of the Treasury announced his intention to distribute $4,000,000 more of government funds as deposits in national banks. A large proportion of this was deposited in the banks of St. Louis, to relieve the strain caused by the Exposition. — By a ruling of the Treasury Department in June, German "Cartel" sugar was held to belong to the class of bounty-fed sugar, and was made subject to a countervailing duty under the Dingley Act. By an important decision of the Board of General Appraises made in October, it was held that commissions charged for the purchase of goods in Europe by agents and brokers should not be included in the dutiable value of importations. — On July first **the new food law**, which forbids the admission of adulterated foreign products into the

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United States, went into effect, and several cargoes of French wines and German pork products were returned as having been imported in violation of the law. — A number of important **changes in the army** occurred during the summer. On August 8 Lieutenant-General Nelson A. Miles, commander of the United States Army, retired, and was succeeded by Major-General S. M. B. Young, who was promoted to the rank of Lieutenant-General. General Young remained in command until August 15, when the general-staff law went into effect. He then became chief of the general staff, and the rank of Commander of the Army became extinct. At the same time Major-General Henry C. Corbin and Brigadier-General William H. Carter were selected as members of the general staff. In October General Corbin was transferred to the command of the Department of the East, and Major-General Adna R. Chaffee succeeded to his position on the general staff. A change in the administration of the War Department was caused by the resignation of Assistant Secretary William Carey Sanger, and the appointment of Robert Shaw Oliver of New York as his successor.

**CONGRESS.** — By a proclamation of the President, issued October 20, the Fifty-Eighth Congress was summoned to meet in extraordinary session at Washington, November 9, for the purpose of approving and putting in operation the reciprocity convention concluded with Cuba in December, 1902, and ratified conditionally at the last session of Congress (see last RECORD, p. 357). The House of Representatives was organized by the election of Joseph Cannon (Republican), of Illinois, to be Speaker, by a vote of 198 to 166 over John Sharpe Williams (Democrat), of Mississippi, who supersedes Mr. Richardson of Tennessee as minority leader in the House. Aside from the Speaker, the old officers of the House were re-elected. On November 13 a reciprocity bill was favorably reported from the committee on ways and means. The Democrats in Congress decided to support the measure as a step in the direction of tariff reform, but urged several amendments, notably the abolition of the differential on refined sugar.

**THE FEDERAL JUDICIARY.** — By a vote of 5 to 4, the Supreme Court on June 1 reaffirmed, in the **case of Osaki Mankichi**, the doctrine of the Insular cases (RECORD for December, 1901, p. 743) that the Constitution does not *ex proprio vigore* follow the flag. The question involved was the legality of the conviction in Hawaii of a Japanese charged with murder, who had not been indicted by a grand jury, and had been adjudged guilty by less than a unanimous verdict of the trial jury, the offense having been committed between the date of the annexation of Hawaii to the United States and that of the passage of the act of Congress creating a territorial government for the island. The defendant claimed the protection of the Constitution of the United States, which insures to an accused person indictment by grand jury. The majority of the court held that the provisions of the Constitution with

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regard to due process of law could have no application in Hawaii until extended there by act of Congress, and that indictment by grand jury was not necessary to a legal conviction at the time. A vigorous dissenting opinion was presented by Chief Justice Fuller and Justices Harlan, Brewer, and Peckham. On October 26 the Supreme Court, in the case of Perry *v.* Haines, decided, again, by 5 to 4, that the admiralty jurisdiction of the United States extends to canals giving connection with tide water, even though they lie wholly within a single State. [See also ANTI-TRUST QUESTION.]

**STATE LEGISLATION.** — Under this head the **Pennsylvania libel law** occupies a leading place. It requires each newspaper to publish the name of its owner or editor; allows an action for damages resulting from negligence in the ascertainment of facts and in making publications affecting the character, reputation, or business of citizens; and allows compensatory damages for injury to business and reputation or for physical and mental suffering caused by pictures, cartoons, or other matter. — In Georgia a stringent **vagrant law**, and also a law for the **protection of song birds**, were passed. The latter makes it unlawful to kill or have in one's possession any bird not classified as "game," or offer for sale any such bird, or its plumage. In **Louisiana** a primary election law, which makes the primaries practically the final elections, was enacted. An act of the legislature of **Vermont**, exempting civil-war veterans from the payment of license taxes, was held by the Supreme Court of the State (State *v.* Shedray, 54 Atl. 1080) to be unconstitutional, as a discrimination in favor of a particular class and a denial of equal protection of the laws. An act of Minnesota requiring plumbers to take out licenses was held by the Supreme Court to be unconstitutional. — A decision of the New York Court of Appeals (People *v.* Pierson), rendered on October 13, declared dependence upon **faith-healing** in case of sickness to be criminal negligence, and upheld the conviction of the defendant for failure to give his child medical aid. An act of the legislature of New Jersey exempting firemen and members of the national guard from taxation was held by the State Supreme Court to be unconstitutional. — [See also LABOR AND CAPITAL.]

**MUNICIPAL AFFAIRS.** — Under this head may be noted an act authorizing municipal ownership of street railways in **Illinois**. The act empowers every city to own the street railways within its corporate limits, and, with the approval of three-fifths of the electorate, to operate them. The roads may not be leased under any circumstances for a longer term than twenty years, and not for longer than five years without a referendum, if ten per cent of the voters so demand. For the purpose of acquiring the railways, municipalities are empowered to issue railway certificates payable out of the revenues of the system; and every city owning or operating its street railways shall publish the accounts thereof showing the income and expenses. The act goes into effect in any city only upon

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the approval of a majority of the voters. — The new charter framed for the city of **Denver**, by which extraordinary powers of home rule, popular control of franchises, direct legislation and civil service reform, were provided for, was rejected by the voters on September 22 by a majority of about seven thousand. Besides the opposition of special interests, there was general opposition to the proposed concentration of large powers in the hands of the mayor. — In **Chicago** the judiciary elections resulted in the choice of fourteen Democratic judges and four Republicans, the election exhibiting a remarkable disregard of party lines on the part of the voters. During the summer the city was in the midst of a heated agitation over the question of franchise renewals. The city claims that the street railway franchises expired on July 30, but some of the companies insist that under the so-called ninety-nine-year act of 1865 their franchises have a half-century yet to run. The city refuses to recognize this act as binding, and negotiations between the city and these companies for renewal have resulted only in partial success. One of the companies secured an injunction from the United States District Court restraining the city from interfering with its lines after July 30, and the question of making the injunction permanent will be heard November 30. In the meantime, negotiations between the city and the company are in progress. — The city of **New York** during the last week of June celebrated by an imposing civic display the 250th anniversary of its foundation. Of the 175 acts passed by the legislature at its last session affecting the city, the mayor accepted 85, rejected 80, and returned the others as not requiring his sanction.

**LABOR AND CAPITAL.** — During the last six months more large strikes have occurred than in any previous period of equal length in the history of the country. The most important of these in point of numbers and interests involved were the strike of street-railway employees in Waterbury, Connecticut, lasting seven months; the building-trades strike in New York City, lasting three months; the strike of textile operatives in Philadelphia, involving 125,000 men; the bricklayers strike in Omaha, the strike of cotton-mill operatives in Lowell, the strike of hotel and restaurant waiters and street railway employees in Chicago, and the strike of street-railway employees in Richmond, Virginia. The Waterbury strike was accompanied by riots and a sympathetic boycott of the trolley company by the labor unions. The railway union demanded the reinstatement of several discharged union leaders and the arbitration of all questions in dispute. The company refused the demands, filled the strikers' places, and eventually won a victory. The dispute was settled in the beginning of October, but none of the important demands of the strikers were granted. The strike of the employees in the building trades of New York is estimated to have cost in loss of wages and profits $65,000,000. The strikers refused to accept the plan of arbitration offered by the employers, or to dispense with the walking delegates, and the employers

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held out, winning in the end a substantial victory. Likewise the Philadelphia textile strike ended in a failure, although a few of the mills granted certain demands of the strikers. In Richmond the street-railway companies refused the demands of their employees; the latter struck, and, aided by a mob of sympathizers, undertook to prevent by force the running of the cars. Several conflicts between the strikers and the guards employed by the company occurred, eventually troops were called out to maintain the peace, and for a time the city was virtually under martial law. In Chicago the waiters' union, under the pressure of public opinion, abandoned its attitude and accepted the plan of arbitration proposed by the employers. The strike of street-railway employees in November was caused by the refusal of the Company to increase wages, to promise to employ only union men, to bear the expense of medical attendance, and to make good all time lost in case of injury. The strike began November 10, and was still in progress at the close of the period under review. In Omaha, after a strike lasting three months, the bricklayers accepted a compromise by which they were to receive union wages and work with non-union men. The Lowell strikers returned to work, acknowledging defeat. In connection with the building-trades strike in New York an incident of popular interest was the conviction of Samuel J. Parks, a walking delegate, of the crime of extortion, it being proved that he had demanded large sums from employers as a condition of exemption from strikes. — An incident in the labor situation at Washington was the expulsion from the labor union of the assistant foreman of the **government printing office**, and his subsequent dismissal from the government service by the public printer upon the demand of the union. His complaint of removal without proper cause was sustained by the Civil Service Commission; and his reinstatement was ordered by the President, who announced that there was no objection to the employees of the government printing office belonging to a labor union if they wished, but that the rules of such an organization could not be permitted to override the laws of the United States. The bookbinders threatened to strike, but did not carry the threat into execution.— In several States notable progress has been made in the direction of securing favorable legislation for the **restriction of child labor.** In New York particularly three such laws went into effect on October first. They require real evidence in proof of the attainment of the fourteenth year, the age at which children are allowed to become employees; extend the restriction to cover children engaged in the telegraph, messenger, and delivery service, as well as those employed in business offices, restaurants, hotels, and apartment-houses; and provide for regular inspection of establishments where children are employed. In Georgia a bill for the restriction of child labor was defeated, chiefly on factional or political grounds. — An act to prevent labor organizations from interfering with the employment of members of **the National Guard** was passed in

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New York. The law makes it a misdemeanor to dissuade a man from enlisting in the National Guard, or to deprive him of his employment because of membership in the Guard. It is also made a misdemeanor for any member of an association or organization to discriminate against a member of the National Guard because of such membership. — An act passed by the legislature of Alabama makes unlawful various proceedings employed in the enforcement of a boycott, and in other respects renders the working of a boycott difficult. — **A judicial decision** having an important bearing upon the labor question was rendered by the United States Circuit Court at St. Louis in August. The court held that a private corporation may discharge employees because of membership in a labor union, and also black-list such men. — A noteworthy state case was that of **Holtshauser *v.* Denver Gas and Electric Light Company**, in which it was held that the failure of an employer to explain to new employees the fact that they were taking the places of strikers was a cause of action for damages when an employee ignorant of the danger had been assaulted and injured by strikers. (See also STATE LEGISLATION.)

**ELECTIONS.**— On November 3 elections for governor and other state officers were held in Iowa, Kentucky, Maryland, Massachusetts, Mississippi, Ohio and Rhode Island; and for minor state or local officers in California, Colorado, Nebraska, New Jersey, New York, Pennsylvania, Utah and Hawaii. At the same time members of the legislature were chosen in Iowa, Maryland, Massachusetts, New Jersey, New York, Ohio and Rhode Island. In Iowa, Massachusetts and Ohio the Republicans elected the entire state tickets by large majorities. In Kentucky, Maryland and Mississippi the Democrats were equally successful. In Rhode Island the Democrats elected the governor, while the remaining offices went to the Republicans. In Colorado, Nebraska and Pennsylvania, where minor state officers were elected, the Republicans were victorious by substantial majorities. Republican legislatures were chosen in Iowa, Massachusetts, New Jersey, New York, Ohio and Rhode Island, while in Kentucky the Democrats elected a large majority of the legislators. In New York the chief interest centered about the municipal election in the city of New York, the paramount issue being the Fusion administration of Mayor Low, who was renominated. The election resulted in the defeat of the Fusionists and the triumph of the Democratic (Tammany) ticket by a majority of 63,000 votes, G. B. McClellan being chosen mayor. In San Francisco a Labor candidate was elected mayor, while in Salt Lake City the Democratic candidate was successful. — In New York a proposed constitutional amendment, empowering the State to undertake a large system of canal improvement, was carried by a large majority.

**THE ANTI-TRUST QUESTION.** — Under this head may be mentioned the decision of Judge Lochren of the United States Circuit Court

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sitting at St. Paul, on August 1, in the case of the State of Minnesota against the **Northern Securities Company**. In this case Judge Lochren refused to follow the opinion of the Circuit Court of Appeals in the action brought by the United States, decided April 9 (last RECORD, p. 367), and held that the company had not violated the State law forbidding the consolidation of parallel and competing lines of railway through its ownership of the stock of the Great Northern and Northern Pacific railways. The injunction asked for by the State of Minnesota to restrain the Securities Company from voting the stock of the two railroad companies, or either of them, was refused. As the suit was not brought by the United States under a federal statute, the decision does not affect the judgment of the Circuit Court in the former case. — An important action under State law occurred in Missouri, where a proceeding of *quo warranto* was instituted by the Attorney-General to oust the great **meat-packing companies** from doing business in the State because of alleged violation of the Anti-trust act of 1899. The defendants were each fined $5,000 and costs, with orders to pay the amount within thirty days or be ousted of all rights, privileges, and franchises, and be forever prohibited from doing business in the State.

**LYNCH LAW**. — During the last six months the mob spirit has been active and widespread. Since May 20 more than fifty cases of lynching have been reported, almost as many cases of attempted lynching, and several race riots. In every case but eight the victims were colored, and all were males except one, which was a case occurring in Louisiana where a neegro woman was lynched for poisoning her mistress. The mobs were composed of white men in every case except one, occurring in Florida, where a negro mob lynched another negro for assault on a black woman. So far as geographical distribution is concerned, Georgia headed the list with nine cases, Mississippi followed with six, and Florida with five. As evidence of the apparent increase of race antipathy, it is worthy of note that the Northern States have been scarcely behind those of the South, eight cases of lynching having occurred north of Mason and Dixon's line, as many cases of attempted lynching and several race riots. Of the offenses charged, about a dozen were rape or attempted rape, one was refusal to disclose the whereabouts of a criminal, another was offering insult to white women, and another was "maintaining criminal relations with a white woman." The remaining offenses were murder or attempted murder. In several cases confessions were made by the accused, in several the dilatory action of the courts was assigned as the reason for the application of lynch law, and in one case it was discovered that an innocent negro had been lynched. In July Evansville, Indiana, was the scene of one of the worst outbreaks of mob violence within recent years. A negro shot a policeman who was attempting to arrest him; a mob started in search of the criminal and for two or three days terrorized the city, during which period an innocent negro

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was lynched. The mob concluded its riotous demonstration by attacking the jail; here, however, the assailants were fired upon by the militia, eight or ten persons being killed and a score wounded. The militia then took possession of the town and restored order. This outbreak was shortly afterwards followed by a somewhat similar occurrence in Danville, Illinois, where a mob assembled to lynch a negro criminal, attacked all negroes in sight, hung one of them who attempted to defend himself, and burned his body on the public square. The mob then attacked the jail, but was successfully resisted by the sheriff and jailer, who fired upon the rioters and wounded several of them. Subsequently eighteen of the rioters were indicted by the grand jury. These outbreaks were followed by an exodus of negroes from the towns where the affairs occurred. — In Wilmington, Delaware, a negro who had confessed to the murder of a young white girl was forcibly taken from the jail and burned at the stake by a mob. One of the leaders having been arrested and imprisoned, another mob forced the authorities to release him from custody. To prevent further lawlessness the governor ordered out the militia. The refusal of the judiciary to bring the negro criminal to a speedy trial was urged in extenuation of the mob's action. — A number of race riots of smaller proportion have occurred at various places in the North, while in several Southern States there has been something of a recrudescence of the "White Cap" movement. In a large number of instances the lives of threatened persons were saved from the wrath of mobs through the courage and prompt action of the law officers. — Another phase of the race problem is illustrated by the **peonage cases** which have been before the Federal court in Alabama. These grew out of the discovery that negro offenders who were unable to pay the fines imposed upon them were "sold out" to cover the fines and costs, and detained by force by their purchasers after the fine had been worked out. Ninety-nine indictments were found by the Federal grand jury sitting at Montgomery, charging a number of planters with holding negroes in involuntary servitude. A number of convictions followed, but most of the convicted persons received pardons from the President. A somewhat similar condition of affairs was reported to exist in the convict camps of Georgia, and an investigation was undertaken by order of the governor. — An incident of the race situation in Mississippi was the election of a candidate for governor, Mr. Vardaman, who is an avowed believer in lynch law, and who is pledged to secure the apportionment of the public school fund between the races according to the amount contributed by each in the form of taxes.

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## II. FOREIGN NATIONS.

**EUROPEAN INTERNATIONAL RELATIONS.** — Under this head should be noted **exchanges of international courtesies** among the heads of several European states during the summer. In May the King of Great Britain visited the King of Italy at Rome and the President of France at Paris. The latter visit was returned in July by President Loubet, accompanied by some eighty members of the French Chambers. In November the King of Italy returned the visit of the King of Great Britain. In September the King of Great Britain visited the Emperor of Austria at Vienna. In July the Czar of Russia visited Vienna, as a result of which the long-standing agreement between Russia and Austria with regard to the preservation of the *status quo* in the Balkans is reported to have been renewed. The proposed visit of the Czar to Italy was abandoned in consequence of the threat of hostile demonstrations by the socialists. In October, Francis Joseph received a visit from the King of Belgium, which is reported to have resulted in a reconciliation between the two monarchs concerning family troubles arising in 1900. In the same month the King of Italy visited France, — an event which is expected to mark the beginning of a *rapprochement* between the two countries, particularly with regard to Mediterranean affairs. So far as political results are concerned, the exchange of visits between King Edward and President Loubet has been the most noteworthy. It was made the occasion of unusual demonstrations of friendship by the people of both countries, and paved the way for the conclusion of an **arbitration treaty**, which was signed at London on October 14. The treaty consists of three articles, and provides that differences of a judicial nature, or such as relate to the interpretation of treaties and which cannot be settled through the ordinary diplomatic channels, shall be submitted to the permanent Court of Arbitration established at the Hague, on condition, however, that they do not involve the vital interests or the honor of the contracting parties, and that they do not affect the interests of a third power. The arrangement is concluded for a period of five years. — A new aspect to the relations between **Great Britain and Persia** was given by the declaration of Lord Lansdowne in Parliament that a "British Monroe Doctrine" for the Persian Gulf was now in existence, and by the announcement in July that a treaty with Persia had been ratified on May 27. The treaty grants reciprocally the most-favored-nation treatment to each country; abolishes the five per cent export duty upon all except a few articles; and abolishes the system of farming out the customs duties, replacing it by government customs offices and warehouses. — Bearing upon European affairs in this quarter is the continued discussion over the control of the proposed **Bagdad Railway**. England and France insist upon equal participation with Germany, and the British government has announced

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its refusal to aid in the construction of the road unless its international character is established. — A matter of interest to the signatory powers of the Berlin treaty of 1885 which created the **Congo Free State** has been the allegations against the Belgian administration of ill treatment of natives, chiefly through trade monopolies and extortion. The charges were taken up in the British Parliament, and the House of Commons adopted a resolution that Great Britain confer with the other signatory powers concerned, with a view to the prevention of further oppression and misgovernment. Meantime the Belgian government has officially denied the charges, and the Chamber of Deputies on July 8, by a vote of 91 to 35, expressed confidence in the Congo administration.

**GREAT BRITAIN AND IRELAND.** — The foremost topic of political interest has been **Mr. Chamberlain's tariff proposals** and the disruption of the Cabinet which resulted therefrom. In the course of the parliamentary debate on the budget in June, the Colonial Secretary placed himself in opposition to his colleagues and proposed a protective tariff on food-stuffs consumed by Englishmen, with preferences for the benefit of the colonies — a measure, he argued, which would be a means of attaching the colonies more closely to the mother country. This proposition to "tamper" with the free-trade policy aroused immense interest and strong opposition, especially among the working classes, who, Mr. Chamberlain said, would contribute three-fourths of the food tax. His proposition to apply the proceeds of the tax to various domestic and social reforms, including old-age pensions, did not lessen the opposition. The budget, as proposed by the Chancellor of the Exchequer, provided for a repeal of the existing grain tax, which had been levied for war purposes. This repeal was strongly opposed by Mr. Chamberlain, but was carried in the House of Commons by an overwhelming majority. An immediate disruption of the Cabinet in consequence of this vote was prevented by an ingenious speech of the premier on June 11. Finally, however, the Colonial Secretary's position became untenable, and on September 16 he resigned, saying in a letter to the premier that he recognized that for the present his proposals were unacceptable to the majority of the people and that he could best promote from the outside the cause which he had at heart. Simultaneously with his resignation came the resignations of Mr. Ritchie, Chancellor of the Exchequer, Lord George Hamilton, Secretary for India, Lord Balfour of Burleigh, Secretary for Scotland, and Mr. Elliot, Financial Secretary of the Treasury. These resignations were followed by the retirement, on October 5, of the Duke of Devonshire, Lord President of the Council and leader of the Liberal Unionists. On the same day Premier Balfour announced the reconstruction of the Cabinet as follows: Mr. Brodrick, formerly Secretary of War, to be Secretary for India; Austen Chamberlain, formerly Postmaster-General, to be Chancellor of the Exchequer; Alfred Lyttleton

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to be Colonial Secretary (Lord Milner having declined to accept the position); Mr. Arnold-Forster to be Secretary of War; Graham Murray to be Secretary for Scotland; and Lord Stanley to be Postmaster-General. On October 10 Victor Cavendish was appointed Financial Secretary to the Treasury, and Earl Percy Under Secretary for Foreign Affairs. Later, the Marquis of Londonderry was appointed Lord President of the Council. Mr. Chamberlain, upon retiring from the Cabinet, entered upon a vigorous campaign for the explanation and popularization of his policy, and the debate was at its height throughout the country at the close of this RECORD. — On June 8 **Parliament assembled**, and continued in session until August 15, when it was prorogued until November 2. The most noteworthy pieces of legislation were the Irish Land Act, the London Education Act, and the ratification of the Brussels Sugar Convention. The chief discussion over the Irish Land bill turned upon the clause which fixed a minimum price at which tenants were to be allowed to buy. The Irish members stood out firmly against this provision and forced Secretary Wyndham to introduce an amendment permitting landlords and tenants to make voluntary bargains outside of the minimum prices originally fixed. The limit of advances to be made to purchasers was also raised from $25,000 to $35,000. Minor disagreements between the House of Commons and the House of Lords were finally settled, and the bill passed the day before the prorogation. It went into effect November 1. The London Education Act was designed to provide an educational authority for the metropolis, which had been excluded from the operation of the general Education Act passed at the spring session of Parliament (last RECORD, p. 371). The Sugar Convention Act prohibits the importation of bounty-fed sugar and provides for government supervision of British refineries, which may be worked only by persons authorized by commissioners. The passage of the bill was followed by an order in council prohibiting the importation of sugar from Denmark, Russia and Argentina. — Other subjects of discussion in Parliament were the naval forces bill, the Transvaal loan, the situation in the Balkans (*q.v.*), the case of the Shanghai journalists (see ORIENT), the maladministration in the Congo Free State, and the perennial deceased wife's sister bill. — The report of the royal commission appointed in August, 1902, to investigate the **conduct of the war in South Africa**, was announced on August 25. The principal feature of the report was the charge of general unpreparedness for the conflict. — Another notable report was that of the royal commission on **alien immigration**, announced on August 11. The report recommended that the immigration of certain classes of aliens into the United Kingdom be subjected to state control, and proposed a number of regulations, including the establishment of a department of immigration. In most respects the proposed regulations are modeled after the immigration laws of the United States. — The death of Lord Salisbury, formerly

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prime minister, occurred August 22. Early in October the **Municipal Elections** throughout England and Wales took place. The issues were local, except in a few places where the education controversy was made an issue. The Liberals gained 71 seats in the councils, the Conservatives 41 and the Labor Party 19. — The **situation in Ireland** has shown a marked improvement. On July 14 a proclamation was issued revoking the application of the Crimes Act in certain districts (see RECORD for June, 1902, p. 358), which had been the subject of general opposition throughout Ireland during the last year. The King and Queen made an extended tour through Ireland in the latter part of September. The reception of the royal party was everywhere most cordial.

**THE BRITISH COLONIES AND INDIA.** — In **Canada** the question of preponderant interest in political circles has been the government's railway policy. With a view to the development of the Northwest, the government introduced a stupendous scheme of railway construction, the chief feature of which is a proposed new line, to be constructed under government supervision, from Moncton, New Brunswick, *via* Quebec to Winnipeg, a distance of 2,000 miles, at an estimated cost of about $60,000,000. This line is to be leased for a term of fifty years to the Grand Trunk Pacific Railroad, the latter agreeing to build the line from Winnipeg to the Pacific coast, bonds amounting to 75 per cent of the actual cost being guaranteed by the government. After weeks of exciting debate the government's policy was sustained by the Dominion House of Commons in September by a vote of 117 to 71, but not until after the resignation of the minister of railways, who differed with his colleagues concerning the agreement with the Grand Trunk Company. In June it was officially announced that the Earl of Minto's term of office as Governor-General had been extended for another year from October first. — The chief event in the politics of **Australia** was the resignation in September of the commonwealth premier, Sir Edmund Barton, to accept a judgeship in the new Federal High Court created at the last session of the commonwealth legislature. The task of forming a new Cabinet was undertaken by Alfred Deakin, attorney-general of the commonwealth. In August the appointment of Lord Northcote, governor of Bombay, to be governor-general of the commonwealth, to succeed Lord Tennyson, resigned, was announced by the home government. At the opening of the Federal Parliament in June the Governor-General announced that bills would be introduced for the establishment of a High Court of Judicature and a Court of Conciliation and Arbitration, and for the development of a system of imperial naval defense. The first and last of these bills were duly introduced and enacted into law, but the government was defeated on the Conciliation project, and it was dropped for the session. It was announced, however, that the measure would be made an issue at the next elections. The imperial naval de-

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fense law embodies the agreement reached at the conference of colonial premiers held in London last year (RECORD for December, 1902, p. 732), and appropriates £200,000 annually for ten years as a colonial contribution for the support of the imperial navy. In June the commonwealth budget was presented to the House of Representatives. The total revenue for the year was £12,105,878, and the total expenditures for commonwealth purposes £3,901,759, the balance being returnable to the states. On account of disagreement with his colleagues concerning the conciliation and arbitration bill, the minister of trade and customs resigned from the Cabinet. In August the committee appointed to select a site for the **permanent Commonwealth capital** reported in favor of Tumut, a small town in New South Wales midway between Sydney and Melbourne, and in October the House of Representatives approved the selection. — Subjects of popular interest have been the labor situation, the race question, and state rights. In **Victoria** a threatened strike of engineers, on account of a government order forbidding railroad employees from joining labor unions, was prevented only by the prompt action of Parliament in assembling and passing a drastic anti-strike measure. The demand for prohibition of the introduction of **colored labor** has been much agitated, and the commonwealth Parliament rejected the request of Mr. Chamberlain that the clause in the postal act forbidding mail contracts with transportation companies employing colored labor should be repealed. The British Post Office was formally notified that the Australian commonwealth would not become a party to any future agreement involving steamers which employ colored labor. — With regard to **affairs in India** the chief item of interest is the favorable financial situation. In presenting the Indian budget to the House of Commons on August 14, the secretary for India stated that the surplus for the year would amount to more than three million pounds and that the government would be able to reduce the salt tax by twenty-five per cent and to make considerable remission in the income tax. The announcement was made in August that the home government had extended **Lord Curzon's term** of office as viceroy until May, 1904, and that he had accepted.

**FRANCE.** — Under this head the question of the **religious associations** continues to occupy the first place of importance. The rigid enforcement of the government's drastic policy against the religious orders (see previous RECORDS) has continued without abatement but not without opposition. On May 20 the Chamber of Deputies, by a vote of 313 to 237, passed a resolution expressing confidence in the government's anti-clerical policy, and on June 26, by a vote of 285 to 267, refused authorization for eighty-one female-teaching congregations to remain in France. Another measure prohibiting "secularized" members of unauthorized congregations from teaching for a period of three years in communes where they had previously taught, passed the Chamber

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after an angry debate, by a vote of 329 to 66. The determination of the government to withdraw the right of instruction from the religious congregations and place it under state control, has been clearly manifest. — A project requiring communes to establish schools to replace those of the religious congregations was brought forward by the government. After a lively debate, in the course of which M. Waldeck-Rousseau, who led the opposition, pointed out that the cost would exceed 125,000,000 francs, the measure was passed by the Deputies by a vote of 186 to 79. Resistance to the enforcement of the government's policy has been offered in several localities and the denunciation of the government by the clerical authorities has been frequent and sometimes violent. In September the premier suppressed the salary of the bishop of Marseilles because of his denunciation and because of an anti-governmental demonstration in his diocese. Shortly after the reopening of the Chambers on October 20, the premier demanded that the various interpellations on the subject of the religious congregations be united with those on the general policy of the government and a vote of confidence taken. Again the policy of the government was approved by a large majority of the deputies. Hereupon the premier announced that the war against the congregations would be continued until congregational education was destroyed. — Next to the religious question **the budget** has been the chief subject of discussion in the Chamber. On June 16 the Finance Minister, M. Rouvier, presented the budgetary statement for 1904, together with a project for an income tax. The expenditures were estimated at $714,360,000, and the receipts at $702,740,000. To meet the deficit the augmentation of certain taxes was proposed. It was also proposed to raise a part of the deficit by a denunciation of the reciprocity treaty with Brazil and the restoration of the duties on Brazilian coffee. The proposed income tax provided for a non-progressive tax of 1½ per cent on all incomes above $100 and a tax of 4 per cent on rent. These are to supersede the poll tax and the door and window tax. — Of a miscellaneous character may be mentioned the passage by the senate of a bill to reduce the period of military service from three to two years; the decision of the government that a reduction of the tariff on American meat will be made, provided similar concessions shall be allowed by the United States; the repeal of the law forbidding the marriage of guilty parties in a divorce granted on statutory grounds; and the appointment of a commission to prepare a scheme for the reform of the *police des mœurs*.

**GERMANY.** — The event which overshadowed all others was the **general elections** for the *Reichstag* in June, which resulted in sweeping gains for the Socialists and the rout of the Agrarians and Radicals. Of about 8,500,000 voters in the empire, more than 3,000,000 voted for Socialist candidates. Of the remaining votes, the Centrists (clericals) who stood next to the Socialists secured about 1,750,000. The Socialist gain since the last election (1898) is about 500,000 voters and twenty-three

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members of the Reichstag, their delegation in that body now numbering eighty-one. The Centrists in the Reichstag number ninety-nine; the Conservatives and National Liberals, fifty-two each. Of the twenty-three members from the kingdom of Saxony, the Socialists elected all but one. The cities of Leipsic, Mayence, Munich, Dortmund Stettin and Frankfort-on-the-Oder for the first time were carried by the Socialists, while the maritime cities of Kiel and Bremen were captured from the Radicals. Of the six members from Berlin the Socialists elected five at the first balloting. In Essen, where the emperor recently denounced the Socialists in strong language, their vote was increased from 4,400 to 22,705. The chief reasons assigned for the Socialist gains were the recent tariff legislation (last RECORD, p. 375), alleged "absolutism" of the emperor, and the proposed increase in the strength of the army. — The principal **legislative measures** before the Imperial Parliament were projects for the reorganization and increase of the army and for a reform of the finances. The government proposed to raise the army to about 647,000 officers and men, which meant an increase of 39,000 men and an additional expense of about $9,000,000 annually. In connection with these projects two important changes were made in the *personnel* of the government. General von Gossler, Prussian minister of war, was succeeded by General von Einem, who was supposed to possess the necessary parliamentary ability to carry through the military project, and Baron von Stengel assumed charge of the imperial treasury in the place of Baron Thielmann. In November it was announced, however, that owing to the unfavorable condition of the imperial finances the proposed increase of the army had been indefinitely postponed. — **Administrative measures** of note were an order which practically excludes American insurance companies from doing business in the empire and decrees expelling Mormon missionaries from several German States. — The negotiations for new commercial treaties have come practically to a standstill. Russia, Austria-Hungary and Italy have refused to negotiate on the basis of the new German protective tariff and insist upon a reduction of the German minimum duties on agricultural products, while Switzerland has replied to the German policy by the enactment of a tariff law containing protective features.

**AUSTRIA-HUNGARY.** — The disquieting political situation (last RECORD, p. 376) in the Dual Monarchy has become even more grave, with but scant prospects of early improvement. The chief source of the recent trouble has been the hostile attitude of the Hungarian Parliament toward the proposed **army measures** of the government. These proposals include an increase of the strength of the army from 103,000 to 125,000 men and the filling up of several Hungarian regiments, which are short of their full quotas. The opposition not only resisted this increase on general principles, but also demanded that the Hungarian army should be entirely separated from that of Austria, that the Magyar lan-

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guage should be used in the orders of command to Hungarian regiments, and that the Hungarian flag should be used in the field. Premier Szell refused to make these concessions, as destructive of the unity and efficiency of the army, and was forced to retire from the cabinet. Thereupon Count Hevervary, Banus of Croatia, on June 22 was intrusted with the formation of a new cabinet and the task of carrying through the army bills. Upon assuming the government he announced that further discussion of the army bills would be temporarily suspended. The Independence party composing the opposition then entered upon a policy of obstruction, which it threatened to continue until the army bills should be definitively withdrawn. The sessions of Parliament for some weeks were marked by stormy scenes, which resulted in a deadlock so far as business was concerned. The premier resigned, but upon request of the emperor withdrew his resignation and continued the futile effort to restore harmony. Meantime the emperor went to Budapest in order to form a new Cabinet and end the crisis, but without success. Finally, on September 17, he issued an order declaring emphatically that he would never consent to the Hungarian demands and that the army should remain common and united as at present. On September 29 Premier Hedervary again resigned and the Chamber adjourned, pending the formation of a new Cabinet. In the latter part of October, Count Stephen Tisza succeeded in forming a new ministry and ending the crisis. Meantime the feeling between the Austrians, who have supported the position of the emperor, and the Hungarians has increased in bitterness. — An incident in the relations between the two parts of the monarchy was a temporary settlement of the Austro-Hungarian **sugar controversy** on the basis of a prohibitory duty to be imposed by each portion of the monarchy on sugar imported from the other. — In the latter part of May, serious riots occurred in **Croatia**, chiefly owing to the long-standing grievances of the Croats against the Magyar government. Taking advantage of the Hungarian situation, they inaugurated an uprising which was suppressed only after a proclamation of martial law. Likewise the Czechs have entered upon a renewed struggle for concessions from Austria. The more important of these include equality of Czech and German languages in the administration, greater educational facilities and the federalization of the monarchy.

**RUSSIA.** — The most widely discussed event of political interest in Russia was the **transfer of M. de Witte** from the ministry of finance. By a ukase of August 29 he was appointed president of the committee of ministers and relieved of the duties of minister of finance. The import of the change has been variously interpreted, one party regarding it in the light of a promotion and as a victory for the progressive party of which M. de Witte is the leader, others viewing the transfer as a practical retirement (the new position is chiefly honorary) and a recognition of the supremacy of M. Plehve, leader of the reactionary forces. M. Pleske,

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director of the imperial bank, was appointed minister of finance to succeed M. de Witte. — Concerning the **financial condition** of the empire, the record is rather unfavorable, a deficit of 23,000,000 rubles being avoided only by the imposition of certain indirect taxes. The administration of the railways showed a deficit of 60,000,000 rubles, owing chiefly to the recent enforced construction of railways of a "political and strategic" character. In June it was announced that M. de Witte had concluded a new loan of 300,000,000 francs, the greater part of which was to be expended in the construction of railways in Manchuria. — In this connection may be mentioned an imperial decree, placing all the property and capital of the **Armenian church** in Russia under the control of the crown, the administration to be intrusted to the ministers of domains, interior and public education. The transfer of the property to the government has been attended by riots in several instances, notably in Transcaucasia, where on October 28 an attempt was made upon the life of the governor. — On August 12 a ukase was promulgated regulating **the government of the Amur district** and the province of Kwang-Tung (leased from China in 1898 for a period of 25 years). The office of viceroy for these regions was established, with supreme authority over the civil, military and diplomatic affairs of the territories, and Vice-Admiral Alexeieff was appointed to the new post, with headquarters at Port Arthur.—The domestic tranquillity has been disturbed in several localities by anti-semitic outbreaks and by riots resulting from labor strikes. Shortly after the Kishineff massacre (last RECORD, p. 378), an **outbreak against Jews** occurred at Gomel, a town 500 miles south of St. Petersburg, in which twenty-five Jews are reported to have been killed, two hundred wounded, and the houses of four or five hundred plundered. On September 13 another outbreak occurred at Mohileff, on the river Dnieper, in which three hundred Jews are reported to have been killed. These massacres, with that at Kishineff, aroused general horror and indignation throughout the civilized world, and contributions aggregating nearly one million dollars have been raised for the relief of the surviving victims. The Russian government removed the governor of the province in which the Kishineff massacre occurred, for failure to prevent the attack upon the Jews. —**Labor disturbances** have been serious and widespread in South Russia, and in several instances collisions have occurred between the troops and the strikers, resulting in loss of life and the destruction of property. At Zlatsust, in May, a conflict between rioting strikers and troops resulted in the killing of over thirty persons and the wounding of 250 others. Another outcome of the affair was the assassination of the governor of Ufa for his attitude of firmness toward the strikers. In August the situation became more serious and it was reported that the number of strikers then amounted to five hundred thousand, the chief centers of disturbance being at Kieff, Odessa, Baku and Tiflis. At Tiflis twenty-one strikers were reported to have been shot by troops;

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and at Kieff and Baku business was paralyzed, while the shooting of strikers by Cossacks was a matter of daily occurrence. In several localities agrarian riots and outrages among the peasantry also occurred. Under this head it is worthy of note that five socialists were sent to Siberia for life for participation in the Rostov riots of last year (RECORD for December, 1902, p. 736). — A matter of legal interest was the promulgation of the **new Criminal Code.** It introduces two principles of jurisprudence new to Russia, namely, the investment of the judge with a certain amount of discretion in fixing the punishment, and the curtailment of the sentence as a reward for good conduct. Solitary confinement is allowed for brief periods only; women are exempt from the death penalty, except for crimes against the royal family; and detailed provision is made for the punishment of sedition and collective demonstrations against authority. — **The Russification of Finland,** under the rule of Governor-General Bobrikoff, has proceeded without interruption. Arbitrary arrest and banishment of obnoxious citizens by "administrative process" has been a matter of almost daily occurrence since April 9, when the Czar conferred upon the governor-general the power of banishment without trial. More than forty persons of prominence, including high officials in the military and naval service, senators, editors and college professors, have been exiled from the Duchy. An order of the Czar issued in August directed the Finnish Senate to prepare a bill amending the existing ordinances concerning municipal and communal authorities. The measure is intended to give permanency to the powers of the governor-general with reference to communal affairs, recently granted for a period of three years. By an order issued in June, the governor-general was instructed to pardon all who refused to present themselves for military service during the year 1902, and who had expressed contrition for their action. By another order, the sale of arms and ammunition in the Duchy was placed under severe restrictions. — In accordance with the Czar's manifesto of June 7, 1900, the Russian language was substituted for the Swedish at the opening of the Finnish Senate in October.

**ITALY.** — The event which overshadowed all others in Italy was the **death in July of Pope Leo XIII,** in the ninety-third year of his age and the twenty-fifth of his pontificate. On August 4 the Conclave of Cardinals, 62 members being present, after four days of ineffectual balloting, unanimously elected Giuseppe Sarto, Patriarch of Venice. He at once assumed the Holy Office under the title of Pius X, and on August 9 was crowned in the basilica of St. Peter with impressive ceremonies. On October 18 the appointment of Monsignor Merry del Val as papal Secretary of State to succeed Cardinal Rampolla was announced. — Among the events of a political character, the place of first importance belongs to the **resignation of the Zanardelli Cabinet,** which occurred on June 13. It had held office since 1901, and had accomplished notable

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political reforms, besides having maintained a considerable degree of harmony between the radical and republican parties, but was unable to command the support of the majority on the question of a parliamentary inquiry into the conduct of the navy department, and therefore resigned. The king accepted the resignation of Giolitti, minister of the interior, and Bottolo, minister of marine, but urged Signor Zanardelli to undertake the reconstruction of the cabinet. The premier pleaded the condition of his health and his inability to carry the burden of government longer, but finally yielded, took the interior portfolio himself, appointed Vice-Admiral Morin to be marine minister, and filled the remaining vacancies by the reappointment of the old ministers. On October 21 the cabinet again resigned, its action being reported to be due to the premier's failing health rather than to the political situation. On October 28 Signor Giolitti was intrusted with the task of forming a new ministry. Next to the Premier, the most notable member of the new cabinet is Signor Suzzatti, minister of the Treasury. In November Signor Rasuno, minister of Finance, committed suicide on account of socialists' attacks charging him with official corruption. — The condition of **the southern provinces** is a problem which still absorbs the attention of the country (last RECORD, p. 378). The latest phase of the situation was a "political strike" of the agitators, by which an attempt was made to suspend the operation of the government by refusal to participate in any of its functions. — Irritation between Italy and Austria has increased, and the domestic tranquillity has been disturbed by Irredentist demonstrations, chiefly by students, in several localities. In Rome the university was closed, and in Palermo the police interfered to prevent demonstrations. — The completion of the new **Census** shows the population of Italy to be 22,475,253, and that illiteracy has decreased from 61.9 per cent to 48.5 per cent during the last decade.

**SPAIN.** — In May King Alfonso XIII opened his first Cortes. In the speech from the throne he expressed the hope that the negotiations on the status of the religious orders would soon be settled in harmony with the "necessities" of the church and the "essential attributes of civil power." Bills were announced for the organization of a council of state, for the administration of Fernando Po, the reform of municipal justice and the penitentiary system, the organization of general obligatory military service without exemption of the privileged classes, educational reform, and the increase of the navy to the strength which it had before the war with the United States. On June 17 the **budget for 1904** was presented to the Chamber. The expenditures were estimated at 968,377,110 pesetas, and the receipts at 1,000,033,839 pesetas. — The proposed **scheme to increase the navy** raised considerable opposition, and caused differences of opinion in the government itself. The result was the **resignation of the Silvela Cabinet** on July 18. Upon the refusal of the late premier to undertake the task of reconstructing

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the cabinet, the Marquis Villaverde was intrusted with the duty, and on July 19 the new ministry was announced. Its declared policy is one of economy, opposition to increase of the navy and repression of republicanism. The first act of the new premier was the removal of the mayor of Madrid and the revocation of a grant of 2,000,000 pesetas which had been voted him for improvement purposes by the Silvela ministry. — The **result of the elections** to the Chamber of Deputies in May showed the return of 322 ministerialists, 70 Liberals, 28 Republicans, seven Carlists, eight Independents and six Catalonists. The results of the Senatorial elections showed the return of 106 Conservatives, 47 Liberals, three Tetuanists, three Democrats, four Republicans, five Independents, and one Catalonist. Eleven Conservatives, seven Liberals, two Independents, and three others were appointed life senators. — In August the Villaverde government began action for the **repression of the Republicans.** Republican meetings were dissolved, authorization for others refused, and a number of Republican editors were prosecuted. The Socialists, old-time enemies of the Republicans, have voted to ally themselves with the Republican forces at the next elections. Added to the unfavorable political situation is the general discontent, if not disaffection, in the army and navy. In October serious riots occurred in the Bilbao mining district, resulting in the death of 47 persons and the wounding of many others.

**MINOR EUROPEAN STATES.** — In **Belgium** the campaign of the parliamentary Socialists against the administration of the Congo Free State (see EUROPEAN INTERNATIONAL RELATIONS) has been the chief topic of discussion in political circles. The attack upon the Conservatives in general and the King in particular has been of the most bitter kind, and the Conservatives have threatened to pass a *lèse majesté* law at the coming session. Meantime the phenomenal growth of the Socialist party, as in Germany, threatens the supremacy of the Conservatives. — In **Denmark** the chief event was the election for members of the Folkething in June, the result being a victory for the Agrarian Left, which elected 74 members. The Social Democrats elected 16, the Right 12, and moderate members of the Left 11. The Socialists gained two members, one of whom defeated the minister of finance on the issue of reform in direct taxation. A legislative project of importance was the adoption by the Folkething of the government bill for the repeal of the land tax, and substitution of a single property tax, a tax on capital, an income tax, and the reform of communal assessments. Important measures of a miscellaneous nature were the decision of the government (which ends a long-standing quarrel) to provide a special resident minister for Iceland in place of the Danish minister of justice, who has hitherto acted as minister for Iceland; and the report of the commission appointed to inquire into the condition of the Danish West Indies, recommending, among other things, the abolition of direct taxes, preferen-

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tial treatment of Danish West India sugar, and insular representation in the Danish parliament. — In **Greece** the chief political event was the resignation, June 25, of the Zaimis ministry, on account of a vote of want of confidence. A new cabinet was formed on June 28, with M. Theotikis as premier. After a tenure of ten days it resigned, and a new one, with M. Rolli as premier, was formed. The leading parliamentary question was the proposed convention granting a monopoly of the currant industry to a British syndicate. The Cretan agitation for annexation to Greece has continued, and Prince George has appealed to the powers concerned to allow the desired union. — In **Norway** a change of government took place in October, the Blehr ministry having resigned in consequence of the decision of a parliamentary committee in a disputed election case, whereby the opposition gained four seats. A new coalition cabinet was formed on October 22 by Professor Hagerup, minister of justice and leader of the Right. The settlement of a long-standing controversy between Norway and Sweden with regard to foreign representation was effected, whereby each is to have its own independent consular system. At the opening of the Storthing in October, the King announced that negotations were in progress with various powers for the conclusion of arbitration treaties. — In **Sweden** the chief event of political interest was the action of the Riksdag in ceding to the German emperor the city of Wismar and the surrounding territory in the Duchy of Mecklenburg-Schwerin. — An incident in the foreign relations of **Switzerland** was the notification to the Italian government in September that the Swiss government would terminate the commercial treaty between the two countries. Of local interest was the action of the cantons of Grisons, Uri and Valais in prohibiting automobiling within their territories. — The record of **Servia** was disgraced, and the civilized world shocked, early in June, by the brutal murder of the King and Queen, two of the queen's brothers, three cabinet ministers, including the premier, and several other persons. The crime was committed by a body of troops, headed by Colonel Naumovitch, who entered the royal palace early in the morning, and demanded the abdication of the king. The king denounced the colonel as a traitor, and shot him, whereupon the conspirators carried out their plot of making way with the royal family. A provisional government was formed, and a proclamation issued re-establishing the constitution, which the king had abolished in March. Prince Peter Karageorgevitch was elected King by the Skupshtina. Of the foreign powers, only the representatives of Russia and Austria took part in the ceremonies of the new king's accession, several of the powers, including the United States, practically breaking off diplomatic relations. The political situation is that bordering on anarchy, and the outlook for improvement is gloomy.

**THE SITUATION IN THE BALKANS.**—In July the insurrection in Macedonia (last RECORD, p. 380) took a more serious turn. The in-

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surgents entered upon a more violent policy, while outbreaks occurred in many districts which had previously been at peace. In the districts of Adrianople and Monastir in particular, the revolt became general, the Macedonian Committee early in August proclaiming those districts in revolution. Both sides inflicted great desolation on the country. Entire villages were burned and the inhabitants massacred by the Turkish soldiery, with unspeakable outrages upon women and children. The insurgents devoted their energies chiefly to the destruction of the railways and their rolling-stock, bridges and other public works. At Krushevo the governor's palace was dynamited, and fifty Turks killed; while at Uskub the government buildings were destroyed, and two hundred Turks killed. Bulgaria appealed to the powers, asking that Turkey be restrained from mobilizing troops on the Bulgarian frontier, where they perpetrated atrocities upon the inhabitants, and charged the Porte with failure to co-operate in carrying out the reform scheme. In September the assassination of the Russian consul at Monastir added to the seriousness of the situation. The Russian government demanded prompt reparation, and dispatched a squadron to Turkish waters in order to enforce the demands, which were promptly complied with. On September 1 a general rising was proclaimed by the revolutionary leaders throughout Macedonia, and the entire Christian population was called to arms. Bulgaria now made a final appeal to the powers. She declared that the Porte was systematically devastating Macedonia and massacring the Christians, and intimated that unless the powers intervened to end this, Bulgaria would be forced to act. In the meantime the Turkish government offered vague terms to the Bulgarians, but they were not acceptable. Finally, on October 5, Russia and Austria sent identical notes to Bulgaria and Turkey, stating that they intended to institute a more "efficacious mode of control" with regard to the enforcement of the reform schemes. The Porte was informed that a system of foreign control must be introduced in Macedonia and the district of Adrianople, for the purpose of carrying out the reform schemes, and that Turkey would be expected to restore the destroyed villages and repatriate the surviving inhabitants. On October 8 Bulgaria announced her terms of peace, demanding communal autonomy for the disturbed region, with local councils for the maintenance of public security, control of the gendarmerie, collection of the taxes and management of the public funds. By the middle of October hostilities were apparently on the decrease in the disturbed provinces. On October 22 the Austro-Russian reform scheme was presented to the Porte. Its main feature is the control for a period of two years by Austria and Russia, of communal autonomy in the disturbed provinces.

**THE ORIENT.** — Under this head a leading event was the conclusion, after protracted negotiations, of the commercial treaty between China and the United States, by which the principle of **the open door**

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in Manchuria was recognized, and *likin*, as a system of taxation, was abolished (see FOREIGN RELATIONS). A somewhat similar treaty between China and Japan was signed at the same time. — A widely discussed subject was the **failure of Russia to evacuate Manchuria** in accordance with the terms of the Manchurian Convention (see RECORD for June, 1902, p. 366). It was reported on September 8 that Russia had made new demands upon China as a condition of evacuation, namely, that no portion of the territory should be ceded to any other power, that no concession be granted to Great Britain unless granted equally to Russia, that there should be no increase of the present import duty on goods entering Manchuria, and other propositions of lesser importance. As yet China has not assented to the new conditions, being mainly deterred by the vigorous protests of the Japanese minister. Meantime the Russians have given little or no evidence of intention to evacuate, and on October 8, the day set for the evacuation, they were actively engaged in building forts and bringing in new re-enforcements. Early in November Russian troops reoccupied Mukden, which had been evacuated some months before. The reason assigned was the inability of the Chinese authorities to maintain order and efficient government in the town. The failure of Russia to evacuate Manchuria, and the strengthening of her influence in Korea by leases secured in violation of treaty stipulations, have greatly exasperated Japan. The probability of war between the two powers has appeared strong, and both parties are reported to have moved troops to the threatened seat of war, while their fleets have been held in readiness. Meanwhile, negotiations for a general settlement of their respective spheres of influence have been in progress at Tokio, but as yet no agreement has been reached. — Evidences of **reaction against reform in China** were the closing of the University of Peking to European and American instructors, the execution by torture of a reform journalist by order of the Empress Dowager, and the attempt to get into custody, on the charge of sedition, six editors of *Supao*, a reform journal published at Shanghai. The British minister was instructed by his government to refuse the request of China for the surrender of these journalists; and several other foreign ministers supported him. — In the politics of **Japan** the chief event was the termination by compromise of the controversy between the Sei-yu-Kai (the opposition party) and the ministry concerning the fiscal policy of the government (last RECORD, p. 381). Marquis Ito closed his connection with the party of the Sei-yu-Kai of which he was leader, and accepted the office of president of the privy council; while Premier Katsura, who had been forced to resign, resumed office. Marquis Saionji was elected leader of the Sei-yu-Kai after twenty-five of its members had seceded because of the *entente* with the cabinet, and Count Matsugata and Marquis Yamagata were appointed privy councilors. In August the cabinet was disrupted by the retirement of the ministers of education, communications,

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agriculture and justice, — one for private reasons, and the others in consequence of resolutions of censure passed by the Diet. On June 5 the session of the Diet closed, the House of Representatives having passed all the naval expansion and financial measures except the proposed expenditure for Formosa railways.

**AFRICA.** — In the **Cape Colony** the chief interest centered in the session of Parliament, which lasted from June until September. The chief object of the session was to ratify the intercolonial customs convention which had been concluded at Bloemfontein (last RECORD, p. 382), and to provide for the construction of several new lines of railway. After a long debate, the customs convention was approved by the casting votes of the presiding officers of the two houses. **The labor question** continues to be a leading topic of discussion in the Cape Colony as elsewhere in South Africa, the blacks refusing to return to work in the mines, while the hostility to imported Asiatic labor adds to the seriousness of the situation. As to its finances the condition of the Cape government has been favorable. The railways have yielded three per cent over and above the interest on the cost, and the treasury statement at the end of the fiscal year showed a surplus of over one million pounds. — The chief event of political interest in **the Transvaal** was the opening at Pretoria on May 20 of the first Transvaal Parliament by Sir Arthur Lawley, the lieutenant-governor. In his opening speech the lieutenant-governor foreshadowed important measures for local self-government, and heavy expenditure in the extension of railroads and other public works, and promised, so far as possible, to meet local sentiment in regard to education. Provision, he said, would be made for teaching the Dutch language, in accordance with the letter and spirit of the peace terms, and a general system of free elementary education would be provided. The first and one of the foremost questions before the new Parliament was the determination of the municipal suffrage, and the preparation of a scheme of local government. — In the **Orange River Colony** the council passed an ordinance providing a war contribution of £5,000,000 from the revenues arising from minerals and precious stones, and adopted measures relating to the customs, education, revision of the municipal law, and vaccination. The finances of the colony have been in a favorable condition, the budgetary statement showing a surplus of £100,000, while foreign trade has nearly doubled. — The revolt against the Sultan of Morocco (last RECORD, p. 383) has increased in strength, the pretender having defeated the sultan's army in an important engagement, June 16. Following this victory, the Spanish premier announced that Spain and France had formed an alliance to protect the integrity of Morocco.

**LATIN AMERICA.** — Under this head, the leading event was the **Secession of Panama** from the United States of Colombia in November, in consequence of the dissatisfaction occasioned by the rejection of

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the Isthmian Canal treaty (see FOREIGN RELATIONS). The revolution broke out in the town of Panama on November 3, and was from the first a bloodless affair. The revolutionists seized the Colombian military and naval officials, set up a provisional government, and proclaimed the independence of the republic of Panama. The government of the United States promptly recognized the provisional organization as the *de facto* government, and shortly thereafter recognized the independence of the new republic by receiving its minister. The government of Colombia protested against this action, as well as the landing of marines at Panama, and without making notable effort to suppress the revolution, dispatched commissioners to Panama to arrange terms of peace. — In **Venezuela** the rebellion against President Castro (last RECORD, p. 383) has continued without definite result, the only incident of note being the capture in July by Castro's troops of Cuidad Bolivar. The adjudication of the claims of the powers against Venezuela has made notable progress. The mixed commissions in several instances have already made their awards. For the settlement of the claim of preferential treatment for the allied powers (England, Germany, and Italy), the Czar of Russia was requested by the governments concerned, to select three members of the Hague Tribunal of Arbitration. His selections were, the Russian minister of justice, M. Mouravieff, Prof. Lammasch of Austria, and Prof. Martens of Russia. The Tribunal met at The Hague, October 1, and after hearing the arguments of counsel for the various parties, took the case under advisement November 13. — In **Chili** the chief political event was a cabinet crisis in August, caused by the demand for financial reform. The domestic tranquillity was disturbed by labor strikes at Valparaiso, in conseqence of which a part of the South Atlantic squadron was dispatched to that point in June, to protect the interests of the United States. — An incident of considerable importance was the conclusion in November, of a treaty between Brazil and Bolivia for the **settlement of the Acre boundary dispute** (last RECORD, p. 384), which has been in existence since 1889 and which several times threatened to involve the two countries in war. — In **Haiti** a prolonged conflict between the President and the Chambers arose in July, over the discovery of extensive frauds in the issue of government securities. The affair resulted in a cabinet crisis, a proclamation of a state of siege in Port au Prince, and the calling out of the national guard.

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